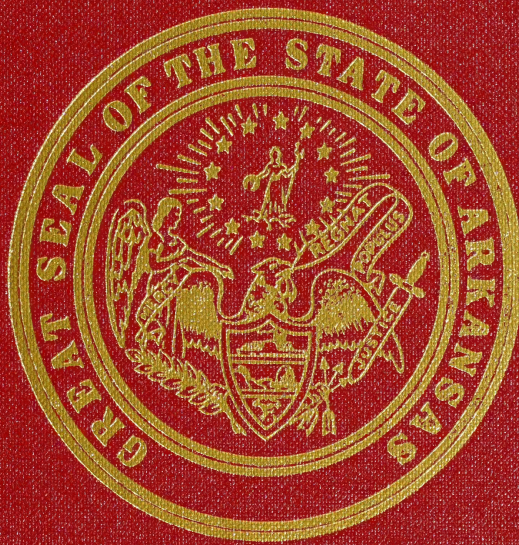



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OF 1987
ANNOTATED

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VOLUME 19B 2016 Replacement TITLE 19: PUBLIC FINANCE (CHAPTERS 6-12)

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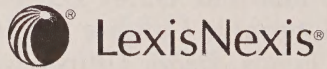
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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2016 Third Extraordinary Session. Annotations are to the following sources:

- Arkansas Supreme Court and Arkansas Court of Appeals Opinions
- Federal Supplement
- Federal Reporter
- United States Supreme Court Reports
- Bankruptcy Reporter
- Arkansas Law Notes
- Arkansas Law Review
- University of Arkansas at Little Rock Law Review
- American Law Reports (ALR)

Titles of the Arkansas Code

- | | |
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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

TITLE 19
PUBLIC FINANCE
(CHAPTERS 1-5 IN VOLUME 19A)

CHAPTER.

1. GENERAL PROVISIONS.
2. STATE REVENUES — RECEIPTS AND EXPENDITURES GENERALLY.
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- 19-6-101. Title.
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19-6-106. Effect on general revenue statutes.

SECTION.

- 19-6-107. Effect on special revenue statutes.
19-6-108. Classifications of revenue.
19-6-109. Miscellaneous revenue.
19-6-110. Mixed funds.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby

declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues

and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues col-

lected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

19-6-101. Title.

This chapter shall be referred to and may be cited as the "Revenue Classification Law" of Arkansas.

History. Acts 1973, No. 808, § 1; A.S.A. 1947, § 13-503.

19-6-102. Purpose.

Because of the many revenue laws of the state providing for the levying and collecting of taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, and penalties for the support of the state government and its agencies, institutions, boards, and commissions that have been enacted by various General Assemblies, it is the policy of the General Assembly with respect to all such revenues and other income, which are required by law to be deposited into the State Treasury, to describe, define, and classify all such revenues and other income and to provide for the purposes, individually and collectively, that all such revenues and other income may be used. It is the intent and purpose of this chapter to comply with the provisions of the Arkansas Constitution, including Arkansas Constitution, Article 16, § 11.

History. Acts 1973, No. 808, § 2; A.S.A. 1947, § 13-503.1.

19-6-103. Cash funds.

All taxes, licenses, fees, permits, or other income collected by any board, agency, or commission by virtue of the authority of the State of Arkansas which are designated by law to be deposited into a depository other than the State Treasury are classified as "cash funds" and are declared to be revenues of the state to be used as required and to be

expended only for such purposes and in such manner as determined by law.

History. Acts 1973, No. 808, § 2; A.S.A. 1947, § 13-503.1.

19-6-104. Income required to be deposited into State Treasury.

All taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, penalties, and other income provided for by law for the support of state government and its agencies, institutions, boards, and commissions which are required by law to be deposited into the State Treasury shall be handled and used in the manner and for the purposes provided for by this chapter.

History. Acts 1973, No. 808, § 3; A.S.A. 1947, § 13-503.2.

19-6-105. Handling of collections.

All fines, fees, penalties, court costs, taxes, and other collections which, by the laws of this state, are to be remitted directly to the Treasurer of State for credit in the State Treasury to an account of an agency of this state shall be remitted directly to the agency to whose account the same is to be credited. Upon receipt, the agency shall transmit all collections to the Treasurer of State, to be credited by him or her to the account of the agency depositing them.

History. Acts 1973, No. 808, § 3; A.S.A. 1947, § 13-503.2.

19-6-106. Effect on general revenue statutes.

As to the taxes, licenses, fees, and other revenues classified as general revenues, as set out in this chapter, it is not the purpose of this chapter to levy or change the amount or rate of such taxes, licenses, fees, and other revenues but to state the purpose for which general revenues are to be used. This chapter shall not be construed as amending any of the provisions of the law with respect to such taxes defined to be general revenues except for the purpose of defining the purposes for which these revenues are raised and collected.

History. Acts 1973, No. 808, § 4; A.S.A. 1947, § 13-503.3.

19-6-107. Effect on special revenue statutes.

As to the special taxes, licenses, fees, and other revenues classified as special revenues, as set out in this chapter, it is not the purpose of this chapter to levy or change the amount or rate of such taxes, licenses, fees, and other revenues, nor to change the purposes for which such special revenues are to be used as provided for by law. This chapter

shall not be construed as amending any of the provisions of law with respect to such taxes defined to be special revenues except for the purpose of defining the purposes for which these revenues are raised and collected, which also shall include the services rendered by the constitutional and fiscal agencies in the manner provided by law.

History. Acts 1973, No. 808, § 5; A.S.A. 1947, § 13-503.4.

19-6-108. Classifications of revenue.

All taxes, licenses, fees, permits, assessments, royalties, leases, rents, fines, interest, penalties, or other governmental income available to the State of Arkansas, which are required by law to be deposited into the State Treasury, shall be classified under one (1) or more of the following:

- (1) General revenues;
- (2) Special revenues;
- (3) Trust fund income;
- (4) Federal grants, aids, and reimbursements; and
- (5) Nonrevenue receipts.

History. Acts 1973, No. 808, § 6; A.S.A. 1947, § 13-503.5.

19-6-109. Miscellaneous revenue.

(a) All fines, penalties, interest, or court costs received in connection with the collection of any revenue shall be classified the same as the revenue for which the fines, penalties, interest, or court costs are levied.

(b) Proceeds from rental of any real or personal property owned by the State of Arkansas are to be classified as special revenues belonging to the fund or fund account from which the state agency to which the property belongs receives its support unless otherwise specified by law.

(c) All nonrevenue receipts as defined in § 19-6-701 derived from proceeds from the sale of property, income received on account of services being provided by an agency of the state, or any other miscellaneous earnings of any state agency shall be credited to the fund or fund account from which the agency draws its support unless specified otherwise by law.

History. Acts 1973, No. 808, § 12; A.S.A. 1947, § 13-503.11.

Cross References. Uniforms, § 12-9-111.

19-6-110. Mixed funds.

If, at the close of any fiscal year, a balance remains in any State Treasury fund, fund account, or account which is subject to transfer at the close of a fiscal year, and into which both general revenues and either special revenues, nonrevenue receipts, or federal reimbursements are deposited and expended, the special revenue portion of the

balance shall be the proportion that the amount of special revenues credited to such fund or fund account is to total funds credited to the fund or fund account in each fiscal year. The special revenue portion of the balance shall be carried forward to the next fiscal year and shall be used solely for the purposes for which it was collected as provided by law.

History. Acts 1973, No. 808, § 13; 1985, No. 65, § 5; A.S.A. 1947, § 13-503.12.

SUBCHAPTER 2 — GENERAL REVENUES

SECTION.

19-6-201. General revenues enumerated.

Cross References. Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

Direct deposits by the State into local government cash management trust account, § 19-8-311.

Municipal Aid Fund, § 19-5-601 et seq.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 863, § 9: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the provisions of this Act are necessary for the proper administration of vital state programs, and that to delay the provisions of this Act beyond July 1, 1975 would work irreparable harm on the Securities Division. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws

have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 479, § 16: Mar. 21, 1985. Emergency clause provided: "It has been found, and is declared by the General Assembly of Arkansas, that a great need exists to provide funding for state government response to release of hazardous substances into the environment of the state that threaten the public health and welfare. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall take effect be in force from the date of its approval."

Acts 1985, No. 888, § 26: July 1, 1985, except §§ 18, 20, and 21, effective Apr. 15, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1985. Provided, however, that Sections 18, 20 and 21 of this Act shall become effective from and after the passage and approval of this Act."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various

taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: "It is hereby

found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 298, § 18: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1997 have been made by the Eighty-First General Assembly. Therefore, an emergency is hereby declared to exist and this Act being

necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1152, § 7: Apr. 6, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the revenues generated by taxing bingo are dwindling; that many bingo parlors have been enjoined by court order as illegal gambling operations; that bingo operators are currently required to register on July 1 of each year and pay a registration fee; that the repeal of the bingo tax provisions will also repeal the need to pay a registration fee; that taxpayers and the Department of Finance and Administration will be relieved of performing unnecessary administrative tasks related to the registration fees if the tax provisions and annual registration requirements are repealed prior to July 1, 1999. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: "It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003."

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005

have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 182, § 32: Jan. 1, 2008.

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2008 (1st Ex. Sess.), No. 4, §§ 2 and 3: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), No. 5, §§ 2 and 3: Jan. 1, 2009, by their own terms.

Identical Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 12: Jan. 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly that state and local roads and highways are in need of substantial expansion, maintenance and repair, and that additional funding is necessary to address this need. It is also found and determined that increasing development and exploitation of natural gas resources in the Fayetteville Shale Play and in other areas of this state has significantly increased the burden and wear and tear on state and local roads and highway, further exacerbating the need for maintenance and repair. It is also found and determined that previous surpluses in state revenue have been largely spent to improve public education and educational facilities in this state, as was required by the Constitution as interpreted by the Arkansas Supreme Court in the Lake View case and additional revenues must be generated from other sources to address the needs of our roads and highways. It is further found and determined

that due to recent and dramatic increases in the price of gasoline, and the fact that funds for highways are generated from a flat per-gallon tax, the increasing use of more fuel-efficient vehicles has caused a condition in which revenue for roads and highways has not kept pace with the wear and tear caused by vehicular use. It is further found and determined that immediate enactment of this bill is necessary to provide adequate time for various administrative agencies of state government to prepare the necessary reporting forms and instructions, to educate taxpayers responsible for paying the additional taxes levied herein, and take other steps necessary for the proper implementation and administration of this act. Therefore, the General Assembly hereby finds and declares that an emergency exists, pursuant to Article V, § 38 of the Arkansas Constitution, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after January 1, 2009."

Acts 2009, No. 484, § 8: July 1, 2010.

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amend-

ment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 1058, § 6: July 1, 2012.

Acts 2013, No. 747, § 3: Apr. 4, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act is necessary to ensure that motor vehicles on the road are properly tagged after purchase; and that this act should become effective as soon as possible to promote the safety of the public when operating motor vehicles. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

Acts 2013, No. 1411, § 7: July 1, 2014.

Acts 2015, No. 536, § 5: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; and that this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015."

Acts 2015, No. 705, § 5: Oct. 1, 2015. Effective date clause provided: "Sections 1 through 4 of this act are effective on the first day of the calendar quarter following the effective date of this act."

Acts 2015, No. 1046, § 5: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general

revenue funding is essential to the performance of these activities; and that without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015."

Acts 2015, No. 1207, § 5: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2015 have been made by the Ninetieth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015."

Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017. Effective date clause provided: "Sections 9-12, 14, 16 and 17 of this act are effective on and after July 1, 2017."

19-6-201. General revenues enumerated.

The general revenues of the state, as provided by law, shall consist of the following, as described by their commonly known titles:

(1) Sales taxes, as enacted by Acts 1941, No. 386, known as the "Arkansas Gross Receipts Act of 1941", and all laws supplemental or amendatory thereto, § 26-52-101 et seq.;

(2) Use taxes as enacted by Acts 1949, No. 487, known as the "Arkansas Compensating Tax Act of 1949", Acts 1971, No. 222, and all laws supplemental or amendatory thereto, § 26-53-101 et seq.;

(3) Corporation franchise taxes, as enacted by Acts 1979, No. 889, known as the "Arkansas Corporate Franchise Tax Act of 1979", and all laws amendatory thereto, § 26-54-101 et seq.;

(4) Corporation income taxes, as enacted by Acts 1929, No. 118, known as the "Income Tax Act of 1929", Acts 1941, No. 129, and all laws amendatory thereto, § 26-51-101 et seq., with the exception of those additional corporate income taxes set aside as special revenue by § 26-51-205(c)(2);

(5) Individual income taxes, as enacted by Acts 1929, No. 118, known as the “Income Tax Act of 1929”, and all laws amendatory thereto, § 26-51-101 et seq.;

(6) Cigarette taxes and permits and other tobacco products taxes and permits, as enacted by Acts 1977, No. 546, known as the “Arkansas Tobacco Products Tax Act of 1977”, and all laws amendatory thereto, § 26-57-201 et seq.;

(7) Escheat of unclaimed property, as enacted by Acts 1999, No. 850, known as the “Unclaimed Property Act”, and all laws amendatory thereto, § 18-28-201 et seq.;

(8) [Repealed.]

(9) Seventy-five percent (75%) of all severance taxes, with the exception of the taxes paid to sever timber and timber products, the severance tax collected on natural gas, and those portions of severance taxes designated as special revenues in § 19-6-301, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(10) Sand, gravel, oil, coal, and other mineral royalties, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(11) Oil and gas leases, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(12) Petroleum trade practices civil penalties, as enacted by Acts 1993, No. 380;

(13) Estate taxes, as enacted by Acts 1941, No. 136, known as the “Estate Tax Law of Arkansas”, and all laws amendatory thereto, §§ 26-59-101 — 26-59-107, 26-59-109 — 26-59-114, 26-59-116 — 26-59-119, 26-59-121, and 26-59-122;

(14) Those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-101 — 26-60-103 and 26-60-105 — 26-60-112;

(15) State Insurance Department Trust Fund moneys in excess of an amount equal to three (3) fiscal year budgets for the State Insurance Department, § 23-61-710(c);

(16) Large truck speeding fines, § 27-50-311;

(17) Employment agency licenses, as enacted by Acts 1975, No. 493, known as the “Arkansas Private Employment Agency Act of 1975”, and all laws amendatory thereto, § 11-11-201 et seq.;

(18) [Repealed.]

(19) Insurance premium taxes, as enacted by Acts 1959, No. 148, known as the “Arkansas Insurance Code”, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former 23-62-203, 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701,

23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], 23-63-838 [repealed], 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, 23-73-108 [repealed], 23-73-109 [repealed], 23-73-110 — 23-73-116, former 23-74-101 — 23-74-105, 23-74-106 — 23-74-141 [repealed], 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610 and all laws amendatory thereto, with the exception of those premium taxes set aside for the various municipal firemen's pension and relief funds, for the various police officers' pension and relief funds, and for the Workers' Compensation Commission and, with the exception of those additional premium taxes set aside for the Fire Protection Premium Tax Fund, § 26-57-614, and insurance premium taxes from domestic insurers not maintaining a home office in this state as enacted by Acts 1979, No. 908, and all laws amendatory thereto, §§ 23-60-102, 26-57-601 — 26-57-605, and 26-57-607;

(20) Horse racing taxes and fees, including the portion of all moneys wagered, as set out in Acts 1957, No. 46, § 23, as amended, §§ 23-110-406, 23-110-407, 23-110-408 [repealed], 23-110-409, and 23-110-410, the annual license fee, ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, one-third ($\frac{1}{3}$) of the unredeemed pari-mutuel tickets, and the license fees of owners, trainers, jockeys, and jockeys' agents, all as enacted by Acts 1957, No. 46, known as the "Arkansas Horse Racing Law", and all laws amendatory thereto, §§ 23-110-101 — 23-110-104, 23-110-201 — 23-110-205, 23-110-301 — 23-110-307, 23-110-401 — 23-110-403, 23-110-404 [repealed], 23-110-405 — 23-110-407, 23-110-408 [repealed], and 23-110-409 — 23-110-415;

(21) Dog racing taxes and fees, including three percent (3%) of all moneys wagered up to and including one hundred twenty-five million dollars (\$125,000,000) and seven percent (7%) of all moneys wagered in excess of one hundred twenty-five million dollars (\$125,000,000) per calendar year at two hundred forty-four (244) days of racing, one-third ($\frac{1}{3}$) of the odd cents or breaks, the daily operating license fee and fees

paid by each greyhound owner and trainer, simulcast taxes of two percent (2%) of all moneys wagered up to and including three hundred fifty thousand dollars (\$350,000), three percent (3%) in excess of three hundred fifty thousand dollars (\$350,000) but less than or equal to five hundred thousand dollars (\$500,000), and six percent (6%) in excess of five hundred thousand dollars (\$500,000), per racing performance and ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, as enacted by Acts 1957, No. 191, known as the "Arkansas Greyhound Racing Law", §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, 23-111-506, 23-111-507 [repealed], and 23-111-508 — 23-111-514, and all laws amendatory thereto, and the additional four (4) of six (6) days of racing authorized in § 23-111-504;

(22) Alcoholic beverages taxes, permits, licenses, and fees, including the following:

(A) Liquor gallonage taxes and imported wine taxes, as enacted by Acts 1935, No. 109, and all laws amendatory thereto, §§ 3-7-101 — 3-7-110;

(B) Permits and fees for manufacturer and dispensary privileges, as enacted by Acts 1935, No. 108, known as the "Arkansas Alcoholic Control Act", and all laws amendatory thereto, §§ 3-1-101 — 3-1-103, 3-2-101, 3-2-205, 3-3-101 — 3-3-103, 3-3-212, 3-3-401, 3-3-404, 3-3-405, 3-4-101 — 3-4-103, 3-4-201, 3-4-202, 3-4-207 — 3-4-211, 3-4-213, 3-4-214, 3-4-215 [repealed], 3-4-217, 3-4-219, 3-4-220, 3-4-301 — 3-4-303, 3-4-501, 3-4-503, 3-4-601 — 3-4-605, 3-8-301, 3-8-302 [repealed], 3-8-303, 3-8-304 [repealed], 3-8-305 — 3-8-310, 3-8-311 [repealed], 3-8-313 — 3-8-317, 3-9-237, and 23-12-708;

(C) Nonintoxicating beer and wine taxes, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(D) Brandy taxes and fees, as enacted by Acts 1953, No. 163, known as the "Native Brandy Law", and all laws amendatory thereto, § 3-6-101 et seq.;

(E) The additional taxes on native wine and beer and the additional permits fees for retail liquor and beer permits and wholesale liquor and beer permits, as enacted by Acts 1969, No. 271, and all laws amendatory thereto, §§ 3-7-111 and 3-7-506;

(F) The additional taxes on liquor and native wine, as enacted by Acts 1949, No. 282, and all laws amendatory thereto, §§ 3-3-314 and 3-7-111;

(G) The special alcoholic beverage excise taxes, as enacted by Acts 1951, No. 252, and all laws amendatory thereto, §§ 3-7-201 and 3-7-205;

(H) Wholesale and retail permits and fees for the sale of liquor and beer, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(I) Restaurant wine permits, as enacted by Acts 1965, No. 120, and all laws amendatory thereto, §§ 3-9-301 — 3-9-303 and 3-9-305 — 3-9-307;

(J) Permits and taxes on alcoholic beverages sold for on-premises consumption, as enacted by Acts 1969, No. 132, and all laws amendatory thereto, §§ 3-9-201 — 3-9-214, 3-9-221 — 3-9-225, and 3-9-232 — 3-9-237;

(K) Seventy cents (70¢) per gallon of the tax levied upon native wine, permits and fees, as enacted by §§ 3-5-401 — 3-5-412 [repealed]; and

(L) Wine sales on-premise licenses, §§ 3-9-601 — 3-9-606;

(23) Sale of confiscated alcoholic beverages, as enacted by Acts 1947, No. 423, and all laws amendatory thereto, §§ 3-3-301 — 3-3-303, 3-3-304 [repealed], 3-3-308 [repealed], and 3-3-311 — 3-3-314;

(24) Fees collected by the Alcoholic Beverage Control Division of the Department of Finance and Administration for transcripts and fines for violations, as enacted by Acts 1981, No. 790, and all laws amendatory thereto, §§ 3-2-201, 3-2-217, 3-4-213, 3-4-401 — 3-4-406, 3-4-502, 3-5-305, and 3-5-306;

(25) Any fines, penalties, or court costs received in connection with the collection of any of the revenues enumerated in this section;

(26) Any other taxes, fees, license fees, and permits required to be deposited into the State Treasury as provided by law and not otherwise classified;

(27) Savings and loan associations' application fees, annual fees, amendment fees, examination fees, broker's license fees, and other miscellaneous fees, as enacted by Acts 1963, No. 227, §§ 23-37-101 — 23-37-107, 23-37-201, 23-37-202, 23-37-203 [repealed], 23-37-204, 23-37-205 [repealed], 23-37-206 — 23-37-212, 23-37-213 [repealed], 23-37-214, 23-37-301 — 23-37-315, 23-37-401, 23-37-403, 23-37-405, 23-37-406, 23-37-501 — 23-37-510, 23-37-511 [repealed], 23-37-512, 23-37-601 — 23-37-603, and 23-37-701 — 23-37-705;

(28) Credit union charter fees, annual supervision fees, and examination fees, as enacted by Acts 1971, No. 132, § 23-35-101 et seq.;

(29) Sale of checks, investigation fees, annual license fees, semianual reports filing fees, and examination fees, as enacted by Acts 1965, No. 124, known as the "Sale of Checks Act", § 23-41-101 et seq. [repealed];

(30) Securities division fees, including loan broker's licenses, mortgage loan company licenses, broker-dealer licenses, agent licenses, investment advisor licenses, agent examination fees, broker-dealer examination fees, statement filing fees, quarterly reports, and proof of exemption filing fees, all as enacted by Acts 1959, No. 254, known as the "Arkansas Securities Act", and all laws amendatory thereto, §§ 23-42-101 — 23-42-110, 23-42-201 — 23-42-212, 23-42-301 — 23-42-308, 23-42-401 — 23-42-405, and 23-42-501 — 23-42-507;

(31) Professional fundraiser and solicitor fees, as enacted by §§ 4-28-401 — 4-28-416;

(32) Unclaimed security deposits, as enacted by Acts 1969, No. 296, as amended by Acts 1975, No. 1007, §§ 27-19-306, 27-19-408, 27-19-501, 27-19-503, 27-19-603, 27-19-609, 27-19-610, 27-19-612, 27-19-619 — 27-19-621, and 27-19-706 — 27-19-708;

(33) Vending devices sales taxes, as enacted in § 26-57-1001 et seq. and that portion of vending device decal fees and penalties provided in the Vending Devices Decal Act of 1997, § 26-57-1201 et seq.;

(34) Anonymous campaign contributions of fifty dollars (\$50.00) or more, as enacted by Acts 1975, No. 788, and all laws amendatory thereto, §§ 7-6-201 — 7-6-210, 7-6-211 [repealed], 7-6-212 [repealed], 7-6-213, and 7-6-214;

(35) Telephonic sellers registration fees, § 4-99-104;

(36) Long-term rental vehicle tax, § 26-63-304;

(37) Arkansas State Highway and Transportation Department miscellaneous fees, permits, penalties, and fines, as enacted by Acts 1955, No. 397, known as the “Arkansas Motor Carrier Act, 1955”, and all laws amendatory thereto, § 23-13-201 et seq.;

(38) Radiation protection civil penalties, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, § 20-21-401 et seq.;

(39) That portion of the reinstatement fees under § 5-65-119(a)(2)(C), and that portion of the reinstatement fees under §§ 5-65-304(d) and 5-65-310(f);

(40) Short-term rental of tangible personal property tax, § 26-63-301;

(41) Excess campaign contributions, as enacted by § 7-6-203;

(42) Retail pet store registration fees, as enacted by § 4-97-104;

(43) Rental vehicle tax, § 26-63-302;

(44) Residential moving tax, § 26-63-303;

(45) Arkansas Quarry Operation, Reclamation, and Safe Closure Act fees, fines, and bond forfeiture amounts, § 15-57-401 et seq.;

(46) [Repealed.]

(47) [Repealed.]

(48) Arkansas Feed Law of 1997 penalties, § 2-37-113;

(49) Election, voter registration law, and State Board of Election Commissioners fines, § 7-4-118 [repealed];

(50) Remaining funds on dissolution of ballot question committees or legislative question committees, § 7-9-404;

(51) Uniform Athlete Agents Act registration and renewal fees, § 17-16-109;

(52) Until July 1, 2011, moneys in excess of one million dollars (\$1,000,000) in the Securities Department Fund from collections of securities agents initial or renewal registration filing fees and securities registration statement filing fees, § 23-42-211(a)(4);

(53) Human cloning fines, § 20-16-1002;

(54) The first two dollars and fifty cents (\$2.50) of each unregistered vehicle temporary preprinted paper buyer's tag fee, § 27-14-1705;

(55) Electronic games of skill privilege fees and all permit or license fees, penalties, and fines received by the Arkansas Racing Commission, § 23-113-604;

(56) Prohibited employment of relatives civil penalties, § 25-16-1001 et seq.;

(57) The first six hundred seventy-five thousand dollars (\$675,000) of the five percent (5%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5);

(58) Seventy-six and six-tenths percent (76.6%) of all taxes, interest, penalties, and costs on taxes levied on the gross receipts or gross proceeds derived from the sale of food and food ingredients, § 26-52-317(c)(1)(A);

(59) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process, § 26-52-319(a)(1)(A);

(60) Seventy-six and six-tenths percent (76.6%) of the taxes, interest, penalties, and costs received on taxes levied on the privilege of storing, using, distributing, or using food and food ingredients, § 26-53-145(c)(1)(A);

(61) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the sales price of natural gas and electricity purchased by a manufacturer for use directly in the actual manufacturing process, § 26-53-148(a)(1)(A);

(62) Seventy-six and six-tenths percent (76.6%) of the excise taxes levied on all dyed distillate special fuel sold, used, or utilized in the state, § 26-56-224(c)(1);

(63) That portion of Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq. — fines and penalties, § 23-13-605;

(64) Charitable bingo and raffle license fees and excise taxes levied as enacted by §§ 23-114-302, 23-114-307, and 23-114-601;

(65) Additional tax on cigarettes and tobacco products other than cigarettes, as enacted by Acts 2009, No. 180, and all laws amendatory thereto, § 26-57-801 et seq.;

(66) Partial-birth abortion civil fines and penalties, as enacted by Acts 2009, No. 196, and all laws amendatory thereto, the Partial-Birth Abortion Ban Act, § 20-16-1201 et seq.;

(67) International student exchange visitor placement organization registration fees, as enacted by Acts 2009, No. 966, and all laws amendatory thereto, the International Student Exchange Visitor Placement Organization Registration Act, § 6-18-1701 et seq.;

(68) **[Repealed effective July 1, 2017.]** The first four million dollars (\$4,000,000) of the eight and one-half cent (8½¢) tax on distillate special fuels levied each fiscal year under § 26-56-201(a)(1)(A)(i);

(69) Certification of tobacco product manufacturers civil penalties, § 26-57-1303(a)(10)(B);

(70) Sale, distribution, and stamping of tobacco products civil penalties, § 26-57-1306(f)(1);

(71) Permit fees or taxes, label fees, penalties, fines, proceeds of all forfeitures, special inspection fees and costs as enacted by Acts 2013,

No. 483, and all laws amendatory thereto, the Direct Shipment of Vinous Liquor Act, § 3-5-1701 et seq.; and

(72) The first four and one-half (4½) mills on gas assessments levied each fiscal year until July 1, 2017, under § 15-71-107(b)(2)(A)(i).

History. Acts 1973, No. 808, § 7; 1975, No. 863, § 6; 1979, No. 1027, §§ 1, 10; 1983, No. 222, §§ 1, 2; 1985, No. 65, §§ 1, 2; 1985, No. 479, § 14; 1985, No. 888, § 16; A.S.A. 1947, § 13-503.6; Acts 1987, No. 792, §§ 1, 6; 1989, No. 551, § 1; 1993, No. 1072, §§ 1, 2, 16; 1993, No. 1073, § 28; 1995, No. 270, §§ 1, 12; 1997, No. 298, §§ 1, 12; 1999, No. 282, §§ 1, 2; 1999, No. 1152, § 3; 2001, No. 229, §§ 1-4; 2003, No. 28, §§ 1-6; 2005, No. 20, § 1; 2007, No. 182, §§ 17-19; 2007, No. 407, § 1; 2008 (1st Ex. Sess.), No. 4, §§ 2, 3; 2008 (1st Ex. Sess.), No. 5, §§ 2, 3; 2009, No. 484, § 1; 2009, No. 1464, § 1; 2011, No. 1008, § 1; 2011, No. 1058, § 1; 2013, No. 747, § 1; 2013, No. 1393, § 2; 2013, No. 1411, §§ 5, 6; 2015, No. 299, § 26; 2015, No. 536, § 1; 2015, No. 705, § 1; 2015, No. 1046, § 3; 2015, No. 1207, § 1; 2016 (3rd Ex. Sess.), No. 1, § 11.

A.C.R.C. Notes. Identical Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly has determined that the severance tax rate on natural gas should be increased and that there should be different rates of tax for different categories of natural gas.

"(b) Amendment 19 of the Arkansas Constitution required this act to be passed by at least three-fourths of the members of the Senate and at least three-fourths of the members of the House of Representatives.

"(c) In order to implement the increase in the severance tax rate, the General Assembly has identified the following four categories of natural gas, each as defined in Arkansas Code § 26-58-101:

"(1) High-cost gas;

"(2) Marginal gas;

"(3) New discovery gas; and

"(4) All natural gas that is not defined as high-cost gas, marginal gas, or new discovery gas.

"(d) To increase the severance tax rate, the General Assembly used the method of levying a specific tax rate on each category

so that any future legislative enactment that would have the effect of increasing the rate of severance tax on any of those categories of natural gas as defined by § 26-58-101 will also be subject to the three-fourths vote requirement of Amendment 19 of the Arkansas Constitution."

Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

Amendments. The 2011 amendment by No. 1008 added (65) through (67).

The 2011 amendment by No. 1058 added (68).

The 2013 amendment by No. 747 added "The first three dollars (\$3.00) of each unregistered" to the beginning of former (54) and substituted "fee" for "fees".

The 2013 amendment by No. 1393 added (69) and (70).

The 2013 amendment by No. 1411 substituted "26-52-319(a)(1)(A)" for "26-52-319(a)(3)(A)" in (59); and substituted "26-53-148(a)(1)(A)" for "26-53-148(a)(3)(A)" in (61).

The 2015 amendment by No. 299 substituted "That portion of the reinstatement fees under § 5-65-119(a)(2)(C), and that portion of the reinstatement fees under" for "That portion of DWI operator's license reinstatement fees, § 5-65-119(a)(3) and that portion of 'Underage DUI Law' driver's license reinstatement fees" in (39).

The 2015 amendment by No. 536 substituted "The first six hundred seventy-five thousand dollars (\$675,000) of the five" for "Five" at the beginning of (57).

The 2015 amendment by No. 705 substituted "two dollars and fifty cents (\$2.50)" for "three dollars (\$3.00)" in (54).

The 2015 amendment by No. 1046 added (71) (now (72)).

The 2015 amendment by No. 1207 added (71).

The 2016 (3rd Ex. Sess.) amendment repealed (68).

Effective Dates. Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017.

SUBCHAPTER 3 — SPECIAL REVENUES

SECTION.

19-6-301. Special revenues enumerated.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 863, § 9: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the provisions of this Act are necessary for the proper administration of vital state programs, and that to delay the provisions of this Act beyond July 1, 1975 would work irreparable harm on the Securities Division. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification

Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 801, § 18: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that the amendments to the Revenue Stabilization law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 888, § 26: July 1, 1985, except §§ 18, 20, and 21, effective Apr. 15, 1985. Emergency clause provided: "It is hereby found and determined by the Sev-

enty-Fifth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1985. Provided, however, that Sections 18, 20 and 21 of this Act shall become effective from and after the passage and approval of this Act."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 76, § 8: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1991, have been made by the Seventy-Eighth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 765, § 22: Mar. 26, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that cities and counties are faced with financial crises with reference to having sufficient tax resources to fund capital improvements of a public nature and to provide services to their inhabitants; that under current law the counties are restricted to a one percent (1%) levy and the cities are restricted to a one-half of one percent (0.05%) or one percent (1%) levy; that the ability to levy a sales and use tax computed on one-fourth of one percent, one-half of one percent, three-fourths of one percent, or one percent (1%) would be a feasible alternative for some cities and counties in financial crisis; and that such financial crises constitute such an emergency that the immediate passage of this act is necessary in order to provide financial relief to the cities and counties. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall take effect and be in full force from and after its passage and approval."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this

amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 369, § 7: Feb. 20, 1995. Emergency clause provided: "It is hereby

found and determined by the General Assembly that Amendment Number 35 to the Arkansas Constitution requires the General Assembly to establish the maximum annual resident hunting and fishing license fees that may be charged by the Arkansas Game and Fish Commission; that Amendment 35 to the Arkansas Constitution requires all fees, monies, or funds arising from all sources by the operation and transaction of the Arkansas Game and Fish Commission to be deposited in the Game Protection Fund in the State Treasury; and that the immediate passage of this Act is necessary to enable the Arkansas Game and Fish Commission to efficiently operate the game and fish program. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 156, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas was amended by Amendment 75; that Amendment 75 enacted an additional sales tax of $\frac{1}{8}\%$ that was divided between the Game and Fish Commission, the Arkansas Department of Parks and Tourism, the Department of Arkansas Heritage, and Keep Arkansas Beautiful; that administrative legislation must be effective July 1, 1997 when the tax becomes effective so that the intent of the amendment is carried out. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 298, § 18: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1997

have been made by the Eighty-First General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 1997, No. 974: Jan. 1, 1998.

Acts 1997, No. 1071, § 7: Apr. 3, 1997. Emergency clause provided: “It is found and determined by the General Assembly that the current funding provisions of the State Police Retirement System are inadequate and that the benefit provisions of the system must be modified to restore the financial security of the system; that this act accomplishes those purposes; that this act should go into effect as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: “It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Rev-

enue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: “It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003.”

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005 have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of

the public peace, health, and safety shall become effective on July 1, 2005.”

Acts 2007, No. 182, § 32: Jan. 1, 2008.

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

Acts 2008 (1st Ex. Sess.), No. 4, §§ 4 and 5: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), No. 5, §§ 4 and 5: Jan. 1, 2009, by their own terms.

Identical Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 12: Jan. 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly that state and local roads and highways are in need of substantial expansion, maintenance and repair, and that additional funding is necessary to address this need. It is also found and determined that increasing development and exploitation of natural gas resources in the Fayetteville Shale Play and in other areas of this state has significantly increased the burden and wear and tear on state and local roads and highway, further exacerbating the need for maintenance and repair. It is also found and determined that previous surpluses in state revenue have been largely spent to improve public education and educational facilities in this state, as was required by the Constitution as interpreted by the Arkansas Supreme Court in the Lake View case and additional revenues must be generated from other sources to address the needs of our roads and highways. It is further found and determined that due to recent and dramatic increases in the price of gasoline, and the fact that funds for highways are generated from a flat per-gallon tax, the increasing use of

more fuel-efficient vehicles has caused a condition in which revenue for roads and highways has not kept pace with the wear and tear caused by vehicular use. It is further found and determined that immediate enactment of this bill is necessary to provide adequate time for various administrative agencies of state government to prepare the necessary reporting forms and instructions, to educate taxpayers responsible for paying the additional taxes levied herein, and take other steps necessary for the proper implementation and administration of this act. Therefore, the General Assembly hereby finds and declares that an emergency exists, pursuant to Article V, § 38 of the Arkansas Constitution, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after January 1, 2009.”

Acts 2009, No. 610, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009.”

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009

have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 173, § 3: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act provides for the creation of a surcharge upon commercial mobile radio service providers per subject telephone number per month to support the Telecommunications Equipment Fund, and that the optimal time to implement this surcharge is at the beginning of the state’s fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 828, § 11: Oct. 1, 2011. Effective date clause provided: “Sections 1 through 10 of this act are effective on the first day of the calendar quarter following the effective date of this act.”

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 1058, § 6: July 1, 2012.

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amend-

ment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Identical Acts 2014, Nos. 290 and 299, § 15: July 1, 2014.

Acts 2015, No. 393, § 96: Sept. 1, 2015.

Acts 2015, No. 536, § 5: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; and that this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2015, No. 856, § 10: Mar. 31, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain driver license fees are needed to provide vital services to the Department of Arkansas State Police; that this act will allow the use of those fees; and that this act is immediately necessary to provide a source of revenues to the department. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is

overridden, the date the last house overrides the veto.”

Acts 2015, No. 862, § 4: Mar. 31, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the tax credit allocations for waste reduction, reuse, or recycling equipment should be modified to ensure that the expansion of major projects utilizing the tax credit does not endanger the ability of the state to provide essential services or to provide the full value of the tax credits earned by the applicable businesses; that further investment for the tax credit allocations for waste reduction, reuse, or recycling equipment will increase the number of applicable tax credits in existence; and that the state must maintain a balanced budget necessary to deliver essential services to its citizens. Without this change, the ability of the State of Arkansas to ensure the delivery of essential services to citizens will be imperiled and could endanger the economic health of the state. Therefore, an emergency is declared to exist and this act being necessary for the reservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 895, § 49: Apr. 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that prison overcrowding is one of the largest problems currently burdening the state both from a public safety and budgetary standpoint; that safe and effective measures are needed to immediately combat this problem; and that this act is immediately necessary because in the interests of public safety and the state budget the Department of Correction, Department of Community Correction, Department of Human Services, and the Parole Board should be allowed to immediately implement these new measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1)

The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 1046, § 5: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2015, No. 1185, § 9: Jan. 1, 2016.

Acts 2015, No. 1207, § 5: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2015 have been made by the Ninetieth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2015, No. 1235, § 34: Emergency clause failed to pass. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state must be able to plan and give effective notice for the new comprehensive permits created by this act; that it is essential to the operation of Arkansas Tobacco Control and the tobacco, vapor product, and alternative nicotine product industry that this act be effective on the renewal date for permits issued by Arkansas Tobacco Control to

ensure proper funding for the enforcement of the new regulations and requirements of this act; that a delay in the effectiveness of this act after the renewal date of permits and regulations issued by Arkansas Tobacco Control may cause irreparable harm upon the proper administration and provision of essential governmental programs; and that this act is necessary to ensure that the industry and the citizens of Arkansas are provided

guidance regarding permits for vapor products and alternative nicotine products. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2015.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017. Effective date clause provided: “Sections 9-12, 14, 16 and 17 of this act are effective on and after July 1, 2017.”

19-6-301. Special revenues enumerated.

The special revenues of the state, its agencies, departments, institutions, commissions, and boards, as provided by law and as required by law to be deposited into the State Treasury, shall consist of the following, as described by their commonly known titles:

(1) The remainder of motor vehicle operator and chauffeur licenses and penalties, as confirmed and enacted by § 12-8-301 et seq., known as the “Department of Arkansas State Police Communications Equipment Leasing Act”, which are not required for debt service requirements that are authorized to be deposited into the State Treasury under §§ 12-8-307 — 12-8-310;

(2) Motor vehicle registration and license fees, as enacted by Acts 1929, No. 65, §§ 26-55-101, 27-14-305, 27-14-601, 27-15-1501 [repealed], 27-64-104, 27-65-101, 27-65-107, 27-65-110, 27-65-112, 27-65-131 — 27-65-133, 27-67-101, 27-67-102, 27-67-201, 27-67-206 — 27-67-208, 27-67-211, 27-67-214, and 27-67-218, and all laws amendatory thereto, Acts 1965, No. 87, § 27-15-4001, Acts 1959, No. 122, § 27-15-2101 [repealed], Acts 1959, No. 189, § 27-15-2003 [repealed], and Acts 1969, No. 36, §§ 27-15-401 — 27-15-406 [repealed];

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by § 26-56-101 et seq., known as the “Special Motor Fuels Tax Law”, and all laws amendatory thereto, including the:

(A) **[Effective until July 1, 2017.]** Eight and one-half cent (8.5¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i), after the deduction of the first four million dollars (\$4,000,000) each fiscal year under § 26-56-201(g)(1) and one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);

(A) **[Effective July 1, 2017.]** Eight and one-half cent (8.5¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i) and the one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);

(B) Seven and one-half cent (7.5¢) tax on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional four cent (4¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional four cent (4¢) tax on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional five cent (5¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-55-1201(a) and § 26-56-601; and

(G) Additional liquefied gas special motor fuels user permit fees levied in § 26-55-1002;

(4) Gasoline taxes, as enacted by the Motor Fuel Tax Law, § 26-55-201 et seq., including the:

(A) Eight and one-half cent (8.5¢) tax on motor fuels levied by § 26-55-205(a);

(B) Additional one cent (1¢) tax on motor fuels levied by § 26-55-205(b);

(C) Additional four cent (4¢) tax on motor fuels levied by § 26-55-1002(a);

(D) Additional five cent (5¢) tax on motor fuels levied by § 26-55-1201(a) and § 26-56-601; and

(E) Additional total of three cents (3¢) tax on motor fuels levied by § 26-55-1006;

(5) Fireworks licenses, as enacted by Acts 1961, No. 224, and all laws amendatory thereto, §§ 20-22-701 — 20-22-715;

(6) Timberlands taxes, as enacted by Acts 1969, No. 354, known as the “Forest Fire Protection Tax Act of 1969”, and all laws amendatory thereto, § 26-61-101 et seq., state forests and nurseries management income not deposited into the State Forestry Trust Fund, §§ 15-31-115 and 19-5-927; law enforcement fine collections, §§ 15-31-113 and 15-31-114; and timber management plan fees, § 15-31-111;

(7) Motor vehicle in-transit fees, as enacted by Acts 1935, No. 183, and all laws amendatory thereto, §§ 27-14-1801 — 27-14-1808;

(8) Motor vehicle drive-out licenses, as enacted by Acts 1955, No. 111, §§ 27-14-2101 — 27-14-2105;

(9) Motor vehicle certificates of title and duplicates, noting liens, transfer of registration and duplicate or substitute registration certificates and license plates, § 27-14-602, in excess of and after the amounts required to pay the principal and interest on loans and bonds have been made under the 1995 New Revenue Division Building Act, Acts 1995, No. 725;

(10) Overweight and special permits for vehicles and overlength crane permits, as enacted by Acts 1955, No. 98, and all laws amendatory thereto, §§ 27-35-201 — 27-35-203, 27-35-206 — 27-35-208, and 27-35-210; and, overwidth or overlength mobile home permits, as enacted by Acts 1971, No. 264, and all laws amendatory thereto, § 27-35-211 and § 27-35-301 et seq.;

(11) Motor vehicle title registration fees and the noting of liens fees, as enacted by Acts 1949, No. 142, known as the “Uniform Motor Vehicle

Administration, Certificate of Title, and Antitheft Act”, and all laws amendatory thereto, § 27-14-101 et seq., § 27-14-201 et seq., §§ 27-14-301 — 27-14-304, 27-14-306 — 27-14-308, 27-14-310, 27-14-312, 27-14-313, § 27-14-401 et seq., §§ 27-14-602, 27-14-604, 27-14-606, 27-14-701, 27-14-703, 27-14-705, 27-14-707, 27-14-708, 27-14-710 — 27-14-716, 27-14-718 — 27-14-722, 27-14-801 — 27-14-804, 27-14-901 — 27-14-904, 27-14-905 [repealed], 27-14-906 — 27-14-913, § 27-14-1701 et seq., § 27-14-2001 et seq., §§ 27-14-2203 [repealed], 27-14-2204, 27-14-2205, 27-14-2207, 27-14-2210, and 27-14-2211, which are in excess of the amount required by Acts 1961 (1st Ex. Sess.), No. 38, known as the “Arkansas Revenue Department Building Act”, to be cash funds pledged for the principal and interest payments of the Arkansas Revenue Department Building Commission revenue bonds;

(12) Soybean assessments, as enacted by Acts 1971, No. 259, §§ 2-20-401, 2-20-403, 2-20-404, and 2-20-406 — 2-20-409;

(13) Paying patients’ fees, excluding those received from Medicare or Medicaid and the Social Security Administration, or from other sources which cause a decrease in the monthly vendor payment, for services provided by the appropriate Division of Behavioral Health Services and Division of Developmental Disabilities Services divisions and programs of the Department of Human Services;

(14) Fees received by the Arkansas Crime Information Center for driver’s records and other informational services, as enacted by Acts 1971, No. 286, and all laws amendatory thereto, §§ 12-12-201 — 12-12-203, 12-12-206, 12-12-207, 12-12-209, and 12-12-211 — 12-12-213;

(15) Dog racing taxes derived from all revenues from the pari-mutuel tax of fifteen (15) additional days of dog races authorized by §§ 23-111-502 — 23-111-505, and all laws amendatory thereto;

(16) Dog racing taxes derived from two-thirds ($\frac{2}{3}$) of the net proceeds of three (3) additional days of dog races at each meet, as authorized by § 23-111-503(a)(2), and all laws amendatory thereto;

(17) Aviation sales and use taxes, as enacted by Acts 1967, No. 449, and all laws amendatory thereto, § 27-115-110;

(18) Revenue received from saw timber and timber products severance taxes and twenty-five percent (25%) of all other severance taxes, with the exception of the severance tax collected on natural gas, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(19) Motor fuel tax forms, including books and decals, as enacted by Acts 1967, No. 376, § 26-55-713;

(20) Motor boat registration fees, as enacted by Acts 1959, No. 453, and all laws amendatory thereto, §§ 27-101-101 — 27-101-109, § 27-101-201 et seq., §§ 27-101-301 — 27-101-306, and 27-101-308 — 27-101-312;

(21) Three percent (3%) municipal taxes, which are further identified as the three percent (3%) collection cost of the one percent (1%) gross

receipts tax levied by a city having a population of not more than thirty thousand (30,000) persons that has been designated as a model city, as authorized by Acts 1968 (1st Ex. Sess.), No. 4, and all laws amendatory thereto, §§ 26-75-501 — 26-75-507;

(22) Drivers' search fees, as enacted by Acts 1977, No. 465, and all laws amendatory thereto, §§ 27-50-901 — 27-50-903, and 27-50-905 — 27-50-909, 27-50-910 [repealed], 27-50-911, Acts 1989, No. 241, §§ 27-23-118(b)(2) and 27-23-118(c)(2);

(23) [Repealed.]

(24) Private career education school licenses and fees, as enacted by Acts 1989, No. 906, and all laws amendatory thereto, §§ 6-51-601 — 6-51-617;

(25) Elevator safety board fees, as enacted by Acts 1963, No. 189, and all laws amendatory thereto, §§ 20-24-101 — 20-24-117, and 20-24-119;

(26) Net proceeds derived from the sale of pine grown on state highway rights-of-way or other highway-related areas, as enacted by Acts 1983, No. 696, § 22-5-101;

(27) Those insurance premium taxes set aside for firemen's and police officers' pension and relief and related purposes, §§ 24-11-301 and 24-11-809, with the exception of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24-6-209(b);

(28) Bank department charter fees, assessments, and examination fees, as enacted by Acts 1913, No. 113, and all laws amendatory thereto, §§ 16-110-406, 23-30-101 [repealed], 23-31-201 — 23-31-205 [repealed], 23-31-212 — 23-31-215 [repealed], 23-32-102 [repealed], former 23-32-201 — 23-32-204, former 23-32-208, former 23-32-210, 23-32-216 [repealed], 23-32-222 [repealed], 23-32-224 [repealed], 23-32-225 [repealed], 23-32-227 [repealed], 23-32-228 [repealed], 23-32-701 [repealed], 23-32-703 — 23-32-705 [repealed], 23-32-710 [repealed], 23-32-713 [repealed], 23-32-716 [repealed], 23-32-803 [repealed], 23-32-905 [repealed], 23-32-1001 [repealed], 23-32-1002 [repealed], 23-32-1006 [repealed], 23-32-1008 [repealed], 23-32-1101 — 23-32-1103 [repealed], 23-32-1106 [repealed], 23-32-1108 — 23-32-1111 [repealed], 23-33-101 — 23-33-103 [repealed], 23-33-105 [repealed], 23-33-106 [repealed], 23-33-201 — 23-33-207 [repealed], 23-33-212 [repealed], 23-33-213 [repealed], 23-33-301 — 23-33-308 [repealed], 23-33-310 [repealed], 23-34-101 [repealed], 23-34-103 [repealed], 23-34-105 [repealed], 23-34-106 [repealed], 23-34-108 [repealed], 23-34-110 [repealed], and 23-34-111 [repealed];

(29) Industrial loan institutions assessments and examination fees, as enacted by Acts 1941, No. 111, §§ 23-36-101 — 23-36-117;

(30) Various asset forfeiture proceeds, § 5-64-505(f)(5)(B), § 5-64-505(h)(1)(A), and § 5-64-505(i);

(31) Fees recovered from ex-offenders on probation or parole from a facility of the Department of Community Correction, as enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16-93-104;

(32) Liquefied petroleum gas board filing fees, inspection fees, registration fees, permits, and certificates of competency, as enacted by Acts

1965, No. 31, known as the “Liquefied Petroleum Gas Board Act”, and all laws amendatory thereto, §§ 15-75-101 — 15-75-108, 15-75-110, 15-75-201 — 15-75-204, 15-75-205 [repealed], 15-75-206 — 15-75-209, 15-75-301 — 15-75-321, and 15-75-401 — 15-75-405;

(33) Brand registration, sales of state brand books, and fees for transfer of brand titles, as enacted by Acts 1959, No. 179, §§ 2-34-201 — 2-34-212;

(34) Arkansas Livestock and Poultry Commission fees and revenues as enacted by Acts 1981, No. 867, and all laws amendatory thereto, § 2-33-113(a), consisting of:

(A) Income from the livestock spraying program, as enacted by Acts 1969, No. 360, and all laws amendatory thereto, §§ 2-33-207 and 2-33-208;

(B) Poultry and egg grading fees as enacted by Acts 1969, No. 220, known as the “Arkansas Egg Marketing Act of 1969”, and all laws amendatory thereto, § 20-58-201 et seq.;

(C) Acts 1965, No. 49, and all laws amendatory thereto, §§ 2-33-301 — 2-33-305, and 2-33-307;

(D) Acts 1975 (Extended Sess., 1976), No. 1216, and all laws amendatory thereto, §§ 2-33-306 and 2-33-307;

(E) Carcass data information and feeder pig and feeder calf grading fees, as enacted by Acts 1973, No. 454, and all laws amendatory thereto, §§ 2-33-201 — 2-33-206;

(F) Livestock and poultry diagnostic service fees, § 2-33-111;

(G) State, county, and district paid admission surcharges, § 2-33-115(a)(3); and

(H) Small animal testing fees, as enacted by Acts 1981, No. 770, and all laws amendatory thereto, § 2-33-112;

(35) Arkansas Rice Research and Promotion Board assessments, § 2-20-507;

(36) Boiler inspection fees, certificates of competency, permits, examination fees, and licenses, as enacted by Acts 1961, No. 494, and all laws amendatory thereto, §§ 20-23-101 — 20-23-105, 20-23-201 — 20-23-203, 20-23-301 — 20-23-313, and 20-23-401 — 20-23-405;

(37) Motor vehicle registration reinstatement fees, § 27-22-104, and motor vehicle insurance reporting penalties, § 27-22-107;

(38) Special motor-driven cycle and bicycle operators’ licenses and certificates, as enacted by §§ 27-20-101 — 27-20-116;

(39) Polygraph examiner’s examination and license fees, as enacted by Acts 1967, No. 413, known as the “Polygraph Examiners Licensing Act”, §§ 17-39-101 — 17-39-107, 17-39-108 [repealed], 17-39-109, and 17-39-201 — 17-39-214;

(40) Private investigator’s application fees, agency fees, and license fees and security guard fines and fees, as enacted by Acts 1977, No. 429, known as the “Private Investigators and Private Security Agencies Act”, and all laws amendatory thereto, §§ 17-40-101 — 17-40-104, 17-40-204, 17-40-207 — 17-40-209, 17-40-301, 17-40-302, 17-40-306 — 17-40-317, 17-40-329 — 17-40-332, 17-40-337, 17-40-339, 17-40-340, 17-40-342 — 17-40-344, and 17-40-349 — 17-40-355;

(41) Cosmetology board examination, registration, license, duplicate license, reinstatements, reciprocity, renewal and delinquent licenses and fees, as enacted by Acts 1955, No. 358, known as the "Cosmetology Act", and all laws amendatory thereto, §§ 17-26-101 — 17-26-105, 17-26-201, 17-26-202 [repealed], 17-26-203 [repealed], 17-26-204 — 17-26-210, 17-26-301 [repealed], 17-26-302 — 17-26-304, 17-26-305 [repealed], 17-26-306, 17-26-307, 17-26-308 [repealed], 17-26-309 — 17-26-312, 17-26-313 [repealed], 17-26-314 — 17-26-319, 17-26-320 [repealed], 17-26-321, and 17-26-401 — 17-26-415, 17-26-416 [repealed], 17-26-417, and 17-26-418;

(42) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], and 22-3-1216 — 22-3-1219, and that portion not declared cash funds paid to the Arkansas Development Finance Authority for deposit into the Correction Facilities Privatization Account of the Correction Facilities Construction Fund, § 22-3-1210(c)(1)(A), of the Department of Correction's income from its farm operations, including sale of farm products and livestock, rental of farm properties, and payments from agencies of the state or federal government in connection with the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all laws amendatory thereto, §§ 12-27-101 — 12-27-105, 12-27-107 — 12-27-109, 12-27-112, 12-27-113, 12-27-115, 12-27-118, 12-27-120, 12-28-102, 12-29-101, former 12-29-102, 12-29-103, 12-29-104, 12-29-107, 12-29-112, 12-29-401, 12-30-301, 12-30-306, 12-30-401, 12-30-403, 12-30-405 — 12-30-407, 12-30-408 [repealed], 16-93-101, 16-93-102, former 16-93-201, 16-93-202 — 16-93-204, 16-93-601, 16-93-610, 16-93-701, 16-93-705, and 25-8-106;

(43) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], 22-3-1216 — 22-3-1219, of the Department of Correction's sales, or dispositions of articles and products manufactured or produced by prison labor, as enacted by Acts 1967, No. 473, known as the "Prison-Made Goods Act of 1967", § 12-30-201 et seq.;

(44) [Repealed.]

(45) Interest on investments held in the University of Arkansas Endowment Fund, as enacted by Acts 1945, No. 249 [repealed], and all laws amendatory thereto;

(46) Pest control service work examination fees, operators' licenses, and agents' and solicitors' registration fees, as enacted by Acts 1975, No. 488, known as the "Arkansas Pest Control Law", and all laws amendatory thereto, §§ 17-37-101 — 17-37-105, 17-37-106 [repealed], 17-37-107, 17-37-201, and 17-37-203 — 17-37-221;

(47) Liming material registration fees, and vendor's licenses and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas Agricultural Liming Materials Act", §§ 2-19-301 — 2-19-308;

(48) Fertilizer registration fees for manufacturers, jobbers, and manipulators of commercial fertilizers and fertilizer inspection fees, as enacted by Acts 1951, No. 106, and all laws amendatory thereto, §§ 2-19-201 — 2-19-210;

(49) Nursery dealers, agents, and salesperson's license fees, as enacted by Acts 1919, No. 683, known as the "Arkansas Nursery Fraud Act of 1919", and all laws amendatory thereto, § 2-21-101 et seq.;

(50) Arkansas Feed Law of 1997 inspection fees, and registration and license fees, § 2-37-101 et seq.;

(51) Pesticide registration fees, as enacted by Acts 1975, No. 410, known as the "Arkansas Pesticide Control Act", and all laws amendatory thereto, § 2-16-401 et seq.;

(52) Pesticide commercial, noncommercial, private and pilot applicators' license fees, pesticide dealers' license fees, and inspection and permit fees, as enacted by Acts 1975, No. 389, known as the "Arkansas Pesticide Use and Application Act", and all laws amendatory thereto, § 20-20-201 et seq.;

(53) Fees for seed inspection and certificate of inspection tags, as enacted by Acts 1931, No. 73, and all laws amendatory thereto, §§ 2-16-206 and 2-18-101 — 2-18-108;

(54) Agricultural products inspection fees and inspectors' licenses, as enacted by Acts 1925, No. 218, known as the "Agricultural Products Grading Act of 1925", § 2-20-101 et seq.;

(55) Inspection, treatment, and certification fees for insect pests and diseases, plants, planting seeds, noxious weeds, or other substance, as enacted by Acts 1917, No. 414, known as the "Arkansas Plant Act of 1917", § 2-16-201 et seq., and Acts 1921, No. 519, known as the "Arkansas Emergency Plant Act of 1921", § 2-16-301 et seq.;

(56) Annual license fees, application investigation fees, and fines from precious stones and precious metals buyers, as enacted by Acts 1981, No. 87, and all laws amendatory thereto, §§ 17-23-101 — 17-23-104, 17-23-201 — 17-23-207, and 17-23-208 [repealed];

(57) [Repealed.]

(58) Individual sewage disposal systems fees, as enacted by Acts 1977, No. 402, known as the "Arkansas Sewage Disposal Systems Act", and all laws amendatory thereto, § 14-236-101 et seq.;

(59) Hazardous waste transporter, generator, and management facility fees, as enacted by Acts 1980 (1st Ex. Sess.), No. 5 [superseded], and all laws amendatory thereto, and § 8-7-226;

(60) Nuclear planning and response fees collected from each utility in the state which operates one (1) or more nuclear generating facilities, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, §§ 20-21-401 — 20-21-405;

(61) Brine taxes imposed upon all brine produced in the state for the purpose of bromine extraction, as enacted by Acts 1979, No. 759, and all laws amendatory thereto, § 26-58-301;

(62) Oil and Gas Commission fees, including oil assessments, gas assessments in excess of four and one-half (4½) mills each fiscal year

until July 1, 2017, under § 15-71-107(b)(2)(A)(i), drilling permits, permits for plugging wells, and permits for each salt water well, all as enacted by Acts 1939, No. 105, and all laws amendatory thereto, §§ 15-71-101 — 15-71-112, 15-72-101 — 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 — 15-72-324, and 15-72-401 — 15-72-407, and the portion of taxes levied on salt water used in bromine production, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, § 26-58-111(9);

(63) Arkansas State Game and Fish Commission licenses, fees, tags, permits, and fines, all as authorized by Arkansas Constitution, Amendment 35, annual resident hunting and fishing licenses, §§ 15-42-104 and 15-42-110; all interest earned on Arkansas State Game and Fish Commission funds, § 15-41-110; all fees, compensation, or royalties for mineral leases or permits for lands held in the name of the Arkansas State Game and Fish Commission, § 22-5-809(c)(3); all assessed fines as set out in § 15-41-209; and forty-five percent (45%) of the additional one-eighth of one percent ($\frac{1}{8}$ of 1%) sales and use tax authorized by Arkansas Constitution, Amendment 75;

(64) Plumbers' licenses, examination fees, permits, and registration fees, as enacted by Acts 1951, No. 200, and all laws amendatory thereto, §§ 17-38-101 — 17-38-103, 17-38-201 — 17-38-205, and 17-38-301 — 17-38-310;

(65) Fees for medical identification tags and bracelets, as enacted by Acts 1965, No. 433, § 20-7-119;

(66) [Repealed.]

(67) Seventy-five percent (75%) of child passenger protection act fines, as enacted by Acts 1983, No. 749, known as the "Child Passenger Protection Act", § 27-34-101 et seq.;

(68) Dairy products licenses, permits, and fees, as enacted by Acts 1941, No. 114, and all laws amendatory thereto, §§ 20-59-201 — 20-59-247;

(69) Department of Health vital statistics fees and other specified fees, as set out in § 20-7-123;

(70) Arkansas Public Service Commission annual assessment fees, as enacted by Acts 1945, No. 40, §§ 23-2-101, 23-2-103 — 23-2-105, 23-2-108, 23-2-109, 23-2-403, 23-2-406, 23-2-407, 23-2-409, 23-2-413, 23-2-418, 23-3-109, and 23-3-110, and Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and all laws amendatory thereto;

(71) Arkansas Public Service Commission miscellaneous fees, as enacted by Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308,

23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and Acts 1949, No. 262, §§ 23-3-109 and 23-16-101 — 23-16-106, and all laws amendatory thereto;

(72) Board of electrical examiners examination, license, and penalty fees, as enacted by Acts 1979, No. 870, § 17-28-101 et seq., § 17-28-201 et seq., and § 17-28-301 et seq., and Acts 1981, No. 132, and all laws amendatory thereto;

(73) Milk inspection fees, as enacted by Acts 1981, No. 587, and all laws amendatory thereto, §§ 20-59-401 — 20-59-407;

(74) Proceeds from sales of tax-forfeited lands, as enacted by Acts 1929, No. 129, and all laws amendatory thereto, § 26-37-210;

(75) Redemption of tax-forfeited lands and quitclaim deed fees, as enacted by Acts 1891, No. 151, and all laws amendatory thereto, § 26-37-310 et seq.;

(76)(A) Commissioner of State Lands fees, including patent fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(B) Deed fees, as enacted by Acts 1931, No. 245, § 22-5-408;

(C) Donation deed fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(D) Field notes and plats fees, as enacted by Acts 1881, No. 12, §§ 22-5-701 and 22-5-702;

(E) Certificate of donation to forfeited land fees, as enacted by Acts 1883, No. 117, § 21-6-203; and

(F) Those fees as specified in Acts 1983, No. 886, § 21-6-203;

(77) Proceeds from sales of islands, as enacted by Acts 1971, No. 148, §§ 22-6-201 and 22-6-203;

(78) Insurance filing fees, renewal fees, amendment fees, reinstatement fees, agents' licenses, brokers' licenses, solicitors' licenses, examination fees, adjusters' licenses, copies of documents and certificates of the commissioner, all as enacted by Acts 1959, No. 148, known as the "Arkansas Insurance Code", and all laws amendatory thereto, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former 23-62-203, 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], 23-63-838 [repealed], 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201

— 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, 23-73-108 [repealed], 23-73-109 [repealed], 23-73-110 — 23-73-116, former 23-74-101 — 23-74-105, 23-74-106 — 23-74-141 [repealed], 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610;

(79) Trademark and service-mark registration and assignment fees, as enacted by Acts 1967, No. 81, §§ 4-71-101 — 4-71-114 [repealed];

(80) Milk laboratory antibiotic drug testing program fees and fines, § 20-59-701 et seq.;

(81) Commercial vehicle temporary registration tag fees, as enacted by Acts 1975, (Extended Sess., 1976), No. 1179, and all laws amendatory thereto, § 27-14-1306;

(82) Incorporation fees of railroads, street interurban, or other transportation companies, express companies, sleeping car companies, and private car companies, as enacted by Acts 1911, No. 87, § 23-11-102;

(83) Filing and recording fees for a charter of educational institutions and for filing and recording a certificate for a change of name or provisions of a charter, as enacted by Acts 1911, No. 375, §§ 6-2-101 — 6-2-105, 6-2-106 [repealed], 6-2-107 — 6-2-109, 6-2-111, and 6-2-112;

(84) Fees for filing articles of incorporation and issuing a certificate of incorporation of nonprofit corporations, filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, and for other administrative functions, as enacted by Acts 1963, No. 176, known as the “Arkansas Nonprofit Corporation Act”, §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-223;

(85) Articles of incorporation filing fees, articles of amendment filing fees, fees for certified copies, other miscellaneous filing fees and certificates, and for receiving service of process on behalf of a corporation, both foreign and domestic, and all other fees, as enacted by Acts 1965, No. 576, known as the “Arkansas Business Corporation Act”, § 4-26-101 et seq.;

(86) Fees collected as authorized under Acts 1961, No. 185, as amended, known as the “Uniform Commercial Code”, § 4-1-101 et seq.;

(87) Fees collected for filing articles of incorporation for cooperative marketing associations, as enacted by Acts 1921, No. 116, as amended, known as the “Cooperative Marketing Act”, § 2-2-401 et seq.;

(88) Fees collected from rural telephone cooperatives, as enacted by Acts 1951, No. 51, as amended, known as the "Rural Telecommunications Cooperative Act", § 23-17-201 et seq.;

(89) Annual license fees collected from rural electrification corporations, as enacted by Acts 1937, No. 342, as amended, known as the "Electric Cooperative Corporation Act", § 23-18-301 et seq.;

(90) Annual license fees collected from agricultural cooperative associations, as enacted by Acts 1939, No. 153, as amended, §§ 2-2-101 — 2-2-124;

(91) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, § 27-16-801, § 27-16-805, and § 27-16-806(a) and (b);

(92) Fees collected from mutual corporations, excepting insurance companies, having no capital stock for the filing of articles of incorporation, as enacted by Acts 1911, No. 87, § 4-26-1204;

(93) Abstracter's examining licenses and fees, as enacted by Acts 1969, No. 109, as amended, known as the "Abstracters' Licensing Law of 1969", § 17-11-101 et seq.;

(94) Driver education fees, as enacted by Acts 1965, No. 531, §§ 27-18-101, 27-18-102, and 27-18-104 — 27-18-106;

(95) Fees charged by the Veterinary Medical Examining Board for the various examinations, permits, licenses, and certificates issued by the board, as enacted by Acts 1975, No. 650, as amended, the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.;

(96) Receipts from timber severed from state-owned lands and rentals from trespassers on state lands, as enacted by Acts 1931, No. 125, §§ 22-5-602 and 22-5-603;

(97) Annual license fees received from septic tank cleaning businesses, as enacted by Acts 1973, No. 71, §§ 17-45-101 — 17-45-105;

(98) Environmental compatibility and public need certificate initial filing fee, as enacted by Acts 1973, No. 164, and all laws amendatory thereto, §§ 23-18-501 — 23-18-529;

(99) Arkansas Motor Vehicle Commission license fees, as enacted by Acts 1975, No. 388, known as the "Arkansas Motor Vehicle Commission Act", §§ 23-112-101 — 23-112-103, 23-112-105, 23-112-201 — 23-112-205, 23-112-301 — 23-112-311, 23-112-401 [repealed], 23-112-402 — 23-112-404, 23-112-405 [repealed], 23-112-406, and 23-112-501 — 23-112-509;

(100) Arkansas Public Service Commission inspection fees as authorized by Acts 1971, No. 285, § 8, as amended, §§ 23-15-211, 23-15-214, and 23-15-216, for operating the Pipeline Safety Division;

(101) The additional severance tax levied on oil produced in this state, as enacted by Acts 1977, No. 310, § 4, and all laws amendatory thereto, § 26-58-301;

(102) Arkansas Manufactured Home Commission registration fees and salesperson's licenses, as enacted by Acts 1977, No. 419, known as the "Arkansas Manufactured Homes Standards Act", and all laws amendatory thereto, § 20-25-101 et seq.;

(103) [Repealed.]

(104) All Arkansas Department of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

(105) Interstate fuel user marking fees, fines, and penalties, as enacted by Acts 1979, No. 434, §§ 26-55-708 and 26-55-709, and all laws amendatory thereto;

(106) Motor vehicle title application fees, fines, and penalties, as enacted by Acts 1949, No. 142, § 33, as amended by Acts 1979, No. 439, and Acts 1981, No. 40, and all laws amendatory thereto, § 27-14-705;

(107) Transfers from the Securities Reserve Fund of interest earned on the average daily balance of the State Highway and Transportation Department Fund, including all internal accounts and funds thereof, as enacted by Acts 1979, No. 438, § 27-70-204, and all laws amendatory thereto;

(108) Arkansas Board of Dispensing Opticians examination, license, and registration fees, as enacted by Acts 1981, No. 589, known as the "Ophthalmic Dispensing Act", and all laws amendatory thereto, § 17-89-101 et seq.;

(109) Arkansas State Board of Nursing examination and license fees, as enacted by Acts 1971, No. 432, and all laws amendatory thereto, §§ 17-87-101 — 17-87-105, 17-87-201 — 17-87-204, 17-87-301 — 17-87-309, and 17-87-401;

(110) Social work examination and license fees, as enacted by Acts 1999, No. 1122, known as the "Social Work Licensing Act", § 17-103-101 et seq., and all laws amendatory thereto;

(111) Brine production assessments as enacted by Acts 1979, No. 937, § 3(d), as amended, § 15-76-306(d);

(112) Amusement attraction permits, as enacted by Acts 1983, No. 837, known as the "Amusement Ride and Amusement Attraction Safety Insurance Act", § 23-89-501 et seq.;

(113) Arkansas Beef Council cattle assessments, § 2-35-401 et seq.;

(114) [Repealed.]

(115) Hazardous and toxic materials facility fees, § 12-84-106;

(116) The additional severance tax levied on coal, as enacted by Acts 1983, No. 560, § 26-58-112;

(117) The additional severance tax levied on stone and crushed stone, as enacted by Acts 1983, No. 761, § 26-58-113, and those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(118) Five percent (5%) of the gross proceeds collected through set-off procedures from debtors who owe money to the State of Arkansas, as enacted by Acts 1983, No. 372, §§ 26-36-301 — 26-36-320;

(119) The first designated portion of real estate transfer taxes for the continuing education of county and circuit clerks, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(120) That portion of driver's license reinstatement fees for the Office of Driver Services, § 5-65-119(a)(2)(B);

(121) [Repealed.]

(122) Agricultural consultant license fees, the Agricultural Consultants Licensing Act of 1987, § 17-13-101 et seq.;

(123) Arkansas Public Art Program funds set aside within methods of finance for each new state building or major capital improvement on a state building, §§ 13-8-207 and 13-8-208;

(124) Three percent (3%) of local sales and use taxes, which are further identified as the three percent (3%) collection cost of the local sales and use taxes, imposed by a city under § 26-75-217, a county under § 26-74-214, and a city or county under § 26-82-111;

(125) [Repealed.]

(126) Those portions of vaccination fees imposed at livestock markets, as enacted by Acts 1985, No. 150, and Acts 1985, No. 151, § 2-40-206, and that portion of all fines and penalties resulting from arrests made or citations issued by Arkansas Livestock and Poultry Commission enforcement officers, § 2-33-113(b);

(127) Arkansas Wheat Promotion Board assessments, as enacted by Acts 1985, No. 283, §§ 2-20-601 — 2-20-609;

(128) [Repealed.]

(129) Local exchange carriers access line surcharges and commercial mobile radio service provider telephone number surcharges, § 23-17-119;

(130) Asbestos removal license fees, §§ 20-27-1001 — 20-27-1007;

(131) Mammography accreditation fees, § 20-15-1005;

(132) Abortion clinic license fees, § 20-9-302;

(133) Child care facility license fees, § 20-78-223;

(134) [Repealed.]

(135) Dog racing taxes derived from the net proceeds of two (2) of the additional six (6) days of dog races, as authorized by § 23-111-504;

(136) Emergency medical services fees, § 20-13-211;

(137) Food service establishment and food salvager permits and fees, §§ 20-57-102 and 20-57-201 — 20-57-204;

(138) Nursing home administrator license application and renewal fees, §§ 20-10-404 and 20-10-405;

(139) [Repealed.]

(140) Health maintenance organizations licenses and fees, § 23-76-127;

(141) Ionizing radiation license and registration fees, § 20-21-217;

(142) Public Water System Service Act fees, fines, and penalties, § 20-28-101 et seq.;

(143) Swimming pools regulation fees and fines, §§ 20-30-102 and 20-30-106;

(144) Department of Health public health laboratory fees, § 20-7-114;

(145) Additional real estate transfer tax, § 26-60-105(b);

(146) Two percent (2%) of gross receipts derived from the sale or rental on certain items related to tourism, § 26-63-402;

(147) Breath testing instrument maintenance fees, § 20-7-128;

(148) That portion of commercial driver license application fees, § 27-23-118(a)(1); driver search fees, §§ 27-23-118(b)(1) and 27-23-118(c)(1); and all fines, forfeitures, and penalties collected under § 27-23-118(d) of the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.;

(149) That portion of commercial driver license application fees, § 27-23-118(a)(2);

(150) Commercial driver license examination fees, § 27-23-110(d);

(151) Arkansas Catfish Promotion Board assessments, § 2-9-107;

(152) Turnpike project tolls, §§ 27-90-203 and 27-90-204;

(153) Regulated substance storage tank license fees and that portion of annual registration fees, § 8-7-802(b); civil penalties collected under § 8-7-806; and that portion of costs collected under § 8-7-807;

(154) Landfill disposal and transportation fees, § 8-6-606;

(155) That portion of driver's license reinstatement fees for the Office of Alcohol Testing of the Department of Health, § 5-65-119(a)(2)(A), § 5-65-304(d), and § 5-65-310(f);

(156) Medicaid Fraud False Claims Act penalties, § 20-77-903(c);

(157) Child care facility fines and penalties, § 20-78-219;

(158) Fees for certifying blasters, § 20-27-1102;

(159) Pseudorabies Control and Eradication Program fees, § 2-40-1201;

(160) HVACR Licensing Board fees, § 17-33-204;

(161) [Repealed.]

(162) That portion of landfill disposal fees collected when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, § 8-6-607(4);

(163) Those additional corporate income taxes as specified in § 26-51-205(c)(2);

(164) Those additional insurance premium taxes as specified in § 26-57-614 and the amount of insurance premium taxes transferred due to the provisions of §§ 24-11-301 and 24-11-809;

(165) Imported waste tire fees and that portion of new tire waste tire fees, § 8-9-404;

(166) Commercial medical waste fees and fines, § 20-32-104;

(167) Additional landfill disposal and transportation fees, § 8-6-1003 et seq.;

(168) That portion of annual registration fees for above-ground storage tanks, § 8-7-802(b);

(169) Fees received by the State Plant Board for licensing and regulation of public grain warehouses;

(170) Elder or disabled persons enhanced civil penalties, § 4-88-202;

(171) That portion of estate taxes collected in a calendar year that exceeds ten percent (10%) of the average annual estate taxes collected for a five-year period immediately preceding the calendar year or fifteen million dollars (\$15,000,000), whichever is greater, § 26-59-122(a);

(172)(A) The additional fees assessed or imposed upon insurers, insurance agents, brokers, professional bail bond companies, and other licensees or registrants, § 23-61-711;

- (B) The additional professional bail bond company fees, § 17-19-111;
- (C) Health maintenance organization fees, § 23-76-127;
- (D) Professional employer organization biennial license fees, § 23-92-407; and
- (E) Employer service assurance organization affidavit fees, § 23-92-414;
- (173) That portion of securities agents initial or renewal registration filing fees, § 23-42-304(a)(2) and 23-42-304(a)(4);
- (174) That portion of securities registration statement filing fees, § 23-42-404(b)(1);
- (175) Background investigation fees, § 12-8-120;
- (176) Criminal history information record search fees for noncriminal justice purposes, § 12-12-1012;
- (177) Alcohol and drug abuse treatment program application fees and accreditation costs, § 20-64-906;
- (178) Marine Sanitation Program fees, § 27-101-408;
- (179) [Repealed.]
- (180) Arkansas Conservation Corps fee-for-service project fees, § 11-13-105(c) [repealed];
- (181) Arkansas Economic Development Incentive Act of 1993 transfers from general revenues for financial incentive plans, § 15-4-1607 and § 26-51-506(c)(2)(B)(vii);
- (182) Alternative fuels taxes, fees, penalties, and interest, as enacted in § 26-62-101 et seq., known as the “Alternative Fuels Tax Law”, and all laws amendatory thereto;
- (183) Dog racing taxes derived from seventy-five percent (75%) of the net proceeds of six (6) additional days of dog races during each twelve-month period, § 23-111-515;
- (184) Transporters of commercial medical waste vehicle inspection fees, § 20-32-105;
- (185) Motor vehicle accident report and records of traffic violations photostatic or written copies fees, § 27-53-210;
- (186) Motor vehicle liability insurance fines, § 27-22-103;
- (187) Rail and other carriers fees, § 23-16-105;
- (188) Life care provider application filing fees, § 23-93-206;
- (189) Additional marriage license fees, § 9-30-109;
- (190) Used motor vehicle dealer license fees, § 23-112-608, and that portion of used motor vehicle dealer fines, § 23-112-603(c)(1);
- (191) Criminal Investigation Division of the State Insurance Department antifraud assessments and penalties, §§ 23-100-104 and 23-100-105;
- (192) Seventy-one percent (71%) of the additional cigarette and tobacco products tax, § 26-57-1101 et seq., as determined by § 26-57-1106;
- (193) One-eighth of one cent ($\frac{1}{8}\text{¢}$) gross receipts and compensating taxes, Arkansas Constitution, Amendment 75;
- (194) Waterworks operators fees, § 17-51-106;

(195) Equine Infectious Anemia Control and Eradication Program fees, § 2-40-826;

(196) Arkansas Corn and Grain Sorghum Promotion Board assessments, § 2-20-805;

(197) State Convicted Offender DNA Data Base Act fines, § 12-12-1118;

(198) Sex Offender Registration Act of 1997 fines, § 12-12-910;

(199) [Repealed.]

(200) Thirty percent (30%) of parking fines and fees, § 27-15-305(c);

(201) Twenty-nine percent (29%) of the additional cigarette and tobacco products tax, § 26-57-1103;

(202) [Repealed.]

(203) Littering fines, § 8-6-404;

(204) Fees from investigations and inspections of various boards' licensees, § 17-80-106;

(205) Body piercing, branding, and tattooing license fees and penalties, § 20-27-1503;

(206) [Repealed.]

(207) [Repealed.]

(208) [Repealed.]

(209) [Repealed.]

(210) Various Department of Health vital statistic fees, § 19-6-485(b);

(211) That portion of fines collected in the Investor Education Fund in excess of one hundred fifty thousand dollars (\$150,000) in any one (1) fiscal year, § 23-42-213(c);

(212) Revenue-generating technology system contract taxes and fees, § 19-11-1101(d);

(213) The first one hundred fifty thousand dollars (\$150,000) of fines collected under § 23-42-209, § 23-42-213(b), and § 23-42-308;

(214) The transfer of up to thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund, Acts 2002 (1st Ex. Sess.), No. 2, § 19-12-108;

(215) Arkansas Biological Agent Registry Act civil penalties, §§ 19-6-487 and 20-36-104;

(216) Drug court program user fees, § 16-98-304, and specialty court program user fees, § 16-10-701;

(217) Additional marriage license fees, § 16-20-407(b)(2);

(218) That portion of an operator's driver's license reinstatement fees, § 5-65-119(a)(2)(D);

(219) That portion of suspended, revoked, or cancelled driver's license reinstatement fees, § 27-16-508(c) and § 27-16-808(b)(2);

(220) That portion of driver license special fees for duplicate and identification licenses, § 27-16-805 and § 27-16-806(c);

(221) Civil penalties and fines collected under the Arkansas Catfish Marketing Act of 1975, § 20-61-201 et seq., and § 20-61-101;

(222) That portion of penalties collected for failure to pay fees for registration and licensing of motor vehicles, § 27-14-601(e);

- (223) Design-use contribution fees, § 27-15-4904;
- (224) Mixed drink supplemental taxes on sales of alcoholic beverages, §§ 3-9-213(c)(2)(A) and 3-9-223(c)(2)(A);
- (225) Arkansas Bureau of Standards lab tests or inspection fees, § 4-18-329(c);
- (226) Auto auction fees for salvage-titled or parts-only titled vehicles, § 23-112-614;
- (227) Vehicle identification number verification fees, § 27-14-725(d);
- (228) Spyware monitoring fines and penalties, § 4-111-104;
- (229) That portion of uniform filing fees collected in circuit court under § 16-10-314 and § 21-6-403(b)(1);
- (230) Forfeited bonds; fee assessments; reimbursements for well-site plugging, repair, and restoration costs from well operators; and proceeds from the sale of hydrocarbons and production equipment located at the site of abandoned and orphaned wells, § 15-71-110(e) and § 15-71-116;
- (231) County quorum court special license plate application fees, § 27-24-303(b)(2);
- (232) Fees for diagnostic laboratory services of the Division of Agriculture of the University of Arkansas, § 6-64-1013;
- (233) That portion of uniform filing fees collected in circuit court under § 16-10-313 and § 21-6-403(b)(1);
- (234) Commercial motor vehicle driving offenses fines and penalties, § 27-23-114(h)(2);
- (235) Criminal History for Volunteers Act fees, § 12-12-1609;
- (236) Adult and Long-Term Care Facility Resident Maltreatment Act civil penalties, § 12-12-1706;
- (237) Phase I Environmental Site Assessment Consultant Act fees, §§ 8-7-1301 — 8-7-1304, 8-7-1305 — 8-7-1310 [repealed], 8-7-1311;
- (238) Ninety-five percent (95%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5) and the remainder of the five percent (5%) of the severance tax collected on natural gas under § 26-58-124(c)(1)(B);
- (239) Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq., registration fees, § 23-13-604;
- (240) Landfill disposal fees to support a computer and electronic recycling program, §§ 8-6-612 and 8-6-614 [repealed];
- (241) Commercial Driver Alcohol and Drug Testing Database penalties, § 27-23-209;
- (242) School-Age Children Eye and Vision Care Fund donations, grants of money, gifts and appropriations from private sources, from municipal and county governments, from the state, and from the federal government, as created in uncodified Section 1 of Acts 2007, No. 138;
- (243) Arkansas retirement community eligibility application fees, § 15-14-104;
- (244) Annual fleet management fees, § 27-14-610(e)(2);
- (245) Securities agents branch office registration filing fees, § 23-42-304(a)(5);

(246) The first designated portion of real estate transfer taxes for the continuing education of county coroners under §§ 26-60-105 and 26-60-112;

(247) Registration for nonprofit motor vehicle fleets management fees, § 27-14-611(d)(1);

(248) Suspended registration reinstatement fees, § 27-22-103(b)(4)(B)(i);

(249) Certificate of franchise authority fees, § 23-19-204;

(250) That portion of fees and fines collected under §§ 20-27-1502, 20-27-1508, 20-27-1509, and 20-27-1511;

(251) That portion of license fees, renewal fees, and civil penalties collected under § 17-55-101 et seq.;

(252) Voice stress analysis examiner's license fees, § 17-39-305;

(253) Fees collected under § 12-12-1510(c); and

(254) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

History. Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No. 1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6; 2008 (1st Ex. Sess.), No. 4, §§ 4, 5; 2008 (1st Ex. Sess.), No. 5, §§ 4, 5; 2009, No. 610, § 6; 2009, No. 1464, §§ 2-4; 2011, No. 173, § 1; 2011, No. 265, § 4; 2011, No. 828, § 8; 2011, No. 1008, §§ 2-5; 2011, No. 1058, § 2; 2013, No. 551, § 6; 2013, No. 1393, § 3; 2013, No. 1433, § 12; 2014, No. 290, § 7; 2014, No. 299, § 7; 2015, No. 299, §§ 27-29; 2015, No. 393, § 95; 2015, No. 536, § 2; 2015, No. 856, §§ 3-6; 2015, No. 862, § 3; 2015, No. 895, § 44; 2015, No. 1046, § 4; 2015, No. 1185, § 8; 2015, No. 1235, § 28; 2015, No. 1264, § 9; 2016 (3rd Ex. Sess.), No. 1, § 12.

A.C.R.C. Notes. Identical Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly has determined that the severance tax rate on natural gas should be increased and that there should be different rates of tax for different categories of natural gas.

"(b) Amendment 19 of the Arkansas Constitution required this act to be passed by at least three-fourths of the members of the Senate and at least three-fourths of the members of the House of Representatives.

"(c) In order to implement the increase in the severance tax rate, the General Assembly has identified the following four categories of natural gas, each as defined in Arkansas Code § 26-58-101:

"(1) High-cost gas;

"(2) Marginal gas;

"(3) New discovery gas; and

"(4) All natural gas that is not defined as high-cost gas, marginal gas, or new discovery gas.

"(d) To increase the severance tax rate, the General Assembly used the method of levying a specific tax rate on each category so that any future legislative enactment that would have the effect of increasing the rate of severance tax on any of those categories of natural gas as defined by § 26-58-101 will also be subject to the three-fourths vote requirement of Amendment 19 of the Arkansas Constitution."

Identical Acts 2014, Nos. 290 and 299, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law."

Identical Acts 2014, Nos. 290 and 299, § 14, provided: "DUPLICATE ACTS. If

HB 1159 and SB 147 of the 2014 Fiscal Session of the 89th General Assembly are both enacted and adopted by the 89th General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Acts 2015, No. 862, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) Arkansas is one (1) of the leading producers of steel in the United States, and Mississippi County, Arkansas, is ranked as one (1) of the top (2) highest steel-producing counties in the United States;

“(2) The steel industry in the United States is highly competitive, and there are presently rising prices and a high level of demand for raw materials in the domestic market;

“(3) The five-year global recession that began in 2008 and current economic conditions in the steel industry are continuing to substantially affect the profitability of many Arkansas companies and to reduce the ability of Arkansas steel producers to utilize existing incentive programs that are intended to encourage capital investment in this state;

“(4) In order to protect and preserve Arkansas jobs and encourage continuing capital investment by steel producers in this state, adjustments in the Arkansas recycling tax credit are appropriate to allow the tax credit to be utilized more fully to accomplish the purposes for which the tax credit is intended;

“(5) The recycling tax credit is of significant importance to qualified manufacturers of steel and the State of Arkansas, and adjustments to the recycling tax credit will ensure its longevity to benefit the state and economic development within the state when a public retirement system is an investor;

“(6) In order to protect and preserve Arkansas jobs and encourage continuing capital investment by steel producers in this state, adjustments in the retention tax credit under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq., are appropriate to allow the credit to be utilized more fully to accomplish the purposes for which the credit is intended; and

“(7) The standards for the gross receipts tax exemption for repair and replacement of machinery and equipment require clarification for qualified manu-

facturers of steel to ensure continuing capital investment by steel producers and to protect and preserve Arkansas jobs.”

Acts 2015, No. 895, § 1, provided: “Legislative intent. It is the intent of the General Assembly to implement wide-ranging reforms to the criminal justice system in order to address prison overcrowding, promote seamless reentry into society, reduce medical costs incurred by the state and local governments, aid law enforcement agencies in fighting crime and keeping the peace, and to enhance public safety.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: “This act shall be known and may be cited as the ‘Arkansas Highway Improvement Plan of 2016’.”

Amendments. The 2011 amendment by No. 173 added “and commercial mobile radio service provider telephone number surcharges” in (129).

The 2011 amendment by No. 265 rewrote (226).

The 2011 amendment by No. 828 rewrote (124).

The 2011 amendment by No. 1008 deleted “and temporary permit fees, § 27-16-803(c)(4)” following “§ 27-23-110(d)” in (150); deleted (161); deleted “Unregistered motor vehicle fines, § 27-14-314, and motor” from the beginning of (186); and added (244) and (245).

The 2011 amendment by No. 1058 rewrote (3)(A).

The 2013 amendment by No. 551 added (246).

The 2013 amendment by No. 1393 added (247) and (248).

The 2013 amendment by No. 1433 deleted “(c)” following “23-76-127” in (172)(C).

The 2014 amendment by identical acts Nos. 290 and 299 added (249) through (252).

The 2015 amendment by No. 299 substituted “§ 5-65-119(a)(2)(B)” for “§ 5-65-119(a)(2)” in (120); substituted “§ 5-65-119(a)(2)(A)” for “§ 5-65-119(a)(1)” in (155); in (218), deleted “driving while intoxicated” following “operator’s” and substituted “§ 5-65-119(a)(2)(D)” for “§ 5-65-119(a)(4)”.

The 2015 amendment by No. 393 updated statutory references in (40).

The 2015 amendment by No. 536 inserted “and the remainder of the five per cent (5%) of the severance tax collected on

natural gas under § 26-58-124(c)(1)(B)” in (238).

The 2015 amendment by No. 856 deleted (128); deleted “and that portion of commercial driver license application fees, § 27-23-118(a)(3)” at the end of (150); deleted (202); in (220), substituted “driver” for “driver’s” and deleted “as enacted by Acts 1977, No. 311, and all laws amendatory thereto, § 27-16-801” following “licenses”.

The 2015 amendment by No. 862 added “and § 26-51-506(c)(2)(B)(vii)” in (181).

The 2015 amendment by No. 895 substituted “specialty court program user fees, § 16-10-701” for “19-6-489” in (216).

The 2015 amendment by No. 1046, in (62), inserted “assessments” following “oil” and inserted “in excess of four and

one-half (4 ½) mills each fiscal year until July 1, 2017, under § 15-71-107(b)(2)(A)(i)”.

The 2015 amendment by No. 1185 added (253).

The 2015 amendment by No. 1235 added (253) (now (254)).

The 2015 amendment by 1264 substituted “§ 8-6-404” for “§ 8-6-404(d)(2)(B)” in (203).

The 2016 (3rd Ex. Sess.) amendment deleted “after the deduction of the first four million dollars (\$4,000,000) each fiscal year under § 26-56-201(g)(1)” following “§ 26-56-201(a)(1)(A)(i)” in the introductory language of (3)(A); and made a stylistic change.

Effective Dates. Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017.

SUBCHAPTER 4 — SPECIAL REVENUE FUNDS

SECTION.

- 19-6-401. Funds generally.
- 19-6-402. Arkansas Department of Aeronautics Fund.
- 19-6-403. Department of Correction Farm Fund.
- 19-6-404. Department of Arkansas State Police Fund.
- 19-6-405. State Highway and Transportation Department Fund.
- 19-6-406. Public Service Commission Fund.
- 19-6-407. Liquefied Petroleum Gas Fund.
- 19-6-408. Plant Board Fund.
- 19-6-409. Poultry and Egg Grading Fund.
- 19-6-410. Oil and Gas Commission Fund.
- 19-6-411. State Forestry Fund.
- 19-6-412. Bank Department Fund.
- 19-6-413. [Repealed.]
- 19-6-414. [Repealed.]
- 19-6-415. Arkansas Abstracters’ Board Fund.
- 19-6-416. [Repealed.]
- 19-6-417. Department of Health Plumbers Licensing Fund.
- 19-6-418. Office of Hazardous Materials Emergency Management Revolving Fund.
- 19-6-419. Soybean Promotion Fund.
- 19-6-420. Game Protection Fund.
- 19-6-421. Indigent Patient’s Fund.
- 19-6-422. [Repealed.]
- 19-6-423. Department of Correction Prison Industry Fund.
- 19-6-424. Motor Vehicle Commission Fund.

SECTION.

- 19-6-425. Public Service Commission Utility Safety Fund.
- 19-6-426. Arkansas Museum of Natural Resources Fund.
- 19-6-427. Manufactured Home Standards Fund.
- 19-6-428. [Repealed.]
- 19-6-429. Veterinary Examiners Board Fund.
- 19-6-430. [Repealed.]
- 19-6-431. [Repealed.]
- 19-6-432. Community Correction Revolving Fund.
- 19-6-433. Livestock and Poultry Equine Infectious Anemia Control Fund.
- 19-6-434. Hazardous Waste Permit Fund.
- 19-6-435. Arkansas Nuclear Planning and Response Fund.
- 19-6-436. [Repealed.]
- 19-6-437. Milk Inspection Fees Fund.
- 19-6-438. Board of Dispensing Opticians’ Fund.
- 19-6-439. Arkansas State Board of Nursing Fund.
- 19-6-440. Social Work Licensing Fund.
- 19-6-441. Arkansas Beef Council Fund.
- 19-6-442. County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund.
- 19-6-443. Arkansas Child Passenger Protection Fund.
- 19-6-444. [Repealed.]

SECTION.

- 19-6-445. Arkansas Wine Producers Council Fund.
- 19-6-446. Arkansas Corn and Grain Sorghum Promotion Board Fund.
- 19-6-447. DNA Detection Fund.
- 19-6-448. Livestock and Poultry Commission Disease and Pest Control Fund.
- 19-6-449. Arkansas Wheat Promotion Fund.
- 19-6-450. Individual Sewage Disposal Systems Improvement Fund.
- 19-6-451. Arkansas Rice Research and Promotion Fund.
- 19-6-452. Asbestos Control Fund.
- 19-6-453. Boating Safety Account Fund.
- 19-6-454. Firemen's and Police Officers' Pension and Relief Fund.
- 19-6-455. Sex and Child Offenders Registration Fund.
- 19-6-456. Nursing Home Personnel Training Fund.
- 19-6-457. [Repealed.]
- 19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.
- 19-6-459. Commercial Driver License Fund.
- 19-6-460. Crime Lab Equipment Fund.
- 19-6-461. Arkansas Public Art Program Fund.
- 19-6-462. Private Career Education Fund.
- 19-6-463. Regulated Substance Storage Tank Program Fund.
- 19-6-464. Arkansas Catfish Promotion Fund.
- 19-6-465. Child Care Fund.
- 19-6-466. Livestock and Poultry Commission Swine Testing Fund.
- 19-6-467. Work Force 2000 Development Fund.

SECTION.

- 19-6-468. Fire Protection Premium Tax Fund.
- 19-6-469. HVACR Licensing Fund.
- 19-6-470. [Repealed.]
- 19-6-471. Marketing Board Fund.
- 19-6-472. [Repealed.]
- 19-6-473. Elder and Disabled Victims Fund.
- 19-6-474. State Police Equipment Fund.
- 19-6-475. Securities Department Fund.
- 19-6-476. [Repealed.]
- 19-6-477. Governor's Commission on People with Disabilities Fund.
- 19-6-478. [Repealed.]
- 19-6-479. Economic Development Incentive Fund.
- 19-6-480. Livestock and Poultry Special Revenue Fund.
- 19-6-481. [Repealed.]
- 19-6-482. Telecommunications Equipment Fund.
- 19-6-483. [Repealed.]
- 19-6-484. Conservation Tax Fund. [Effective until July 1, 2017.]
- 19-6-484. Conservation Tax Fund. [Effective July 1, 2017.]
- 19-6-485. Health Department Technology Fund.
- 19-6-486. Long Term Reserve Fund.
- 19-6-487. Health Adequacy Committee Fund.
- 19-6-488. One Percent to Prevent Fund.
- 19-6-489. Specialty Court Program Fund.
- 19-6-490. Marine Sanitation Fund.
- 19-6-491. Domestic Peace Fund.
- 19-6-492. [Repealed.]
- 19-6-493. Public School Facilities Fund.
- 19-6-494 — 19-6-496. [Repealed.]
- 19-6-497. Shared Benefit Payment Fund.
- 19-6-498. Investor Education Fund.
- 19-6-499. Fallen Firefighters' Memorial Fund.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an

emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a

more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1981, No. 938, § 22: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-third General Assembly that certain amendments to Act 750 of 1973, the Revenue Stabilization Law are essential to the continued financial operation of state government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 222, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1983 have been made by the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 801, § 18: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that the amendments to the Revenue Stabilization law are essential to the continued operation of State government; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 65, § 8: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly that various laws

have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1985, have been made by the Seventy-Fifth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1985, No. 732, § 5: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 792, § 7: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1987, have been made by the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist, and this

Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987.”

Acts 1989, No. 551, § 8: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1989, have been made by the Seventy-Seventh General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1989 (3rd Ex. Sess.), No. 85, § 4: Nov. 17, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, meeting in Third Extraordinary Session, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1991, No. 76, § 8: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the sup-

port of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1991, have been made by the Seventy-Eighth General Assembly. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Identical Acts 1991, Nos. 1040 and 1239, § 11: Apr. 8, 1991 and Apr. 10, 1991 respectively. Emergency clauses provided: “It has been found and it is hereby declared by the General Assembly that there is an immediate need for the construction and repair of the State Highway System. For these reasons, it is declared necessary for the preservation of the public peace, health, and safety that this Act become effective without delay. It is, therefore, declared that an emergency exists, and this Act shall take effect from the date of its passage and approval.”

Acts 1991, No. 1052, § 9: Apr. 9, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that additional funds are necessary to provide higher quality educational program which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years of education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide the funding necessary to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs; and that it is necessary for this act to become effective immediately to provide the funding needed for these programs as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 766, § 12: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to

the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 953, § 24: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1072, § 17: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1993 have been made by the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1993, No. 1073, § 35: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 236, § 34: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 270, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1995 have been made by the Eightieth General

Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1032, § 13: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that in order for the Department of Health to become more efficient in accounting and budgetary practices due to the transfer of the Bureau of Alcohol and Drug Abuse Prevention, changes in various funds are needed; and that the provisions of this Act provide such changes. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 156, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas was amended by Amendment 75; that Amendment 75 enacted an additional sales tax of $\frac{1}{8}\%$ that was divided between the Game and Fish Commission, the Arkansas Department of Parks and Tourism, the Department of Arkansas Heritage, and Keep Arkansas Beautiful; that administrative legislation must be effective July 1, 1997 when the tax becomes effective so that the intent of the amendment is carried out. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 298, § 18: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1997 have been made by the Eighty-First Gen-

eral Assembly. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1040, § 11: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some local school districts had previously failed to levy the Base Millage for the maintenance and operational costs, thereby placing those schools in jeopardy of not having sufficient funds available. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 282, § 18: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 1999 have been made by the Eighty-second General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 1999, No. 1315, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the changes required by this act must take effect at the beginning of the state fiscal year and not to do so will disrupt the flow of funds for vocational education. Therefore, an emer-

gency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 229, § 16: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect that various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2001 have been made by the Eighty-third General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 577, § 8: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that this act must go into effect on the date the biennial appropriation for the Department of Labor goes into effect, which is July 1, 2001, and that the delay in the effective date of this act could work irreparable harm upon the proper administration and provisions of essential government programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

Acts 2001, No. 1642, § 7: Apr. 16, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that due to the extraordinary increase in the number of illicit drug laboratory and criminal drug related cases filed throughout the state additional state resources are needed to examine and identify evidence turned over to the State Crime Laboratory; that constructing and equipping regional crime laboratories will provide the most efficient and effective method of meeting these demands; and

that the effectiveness of this Act on the date of its passage and approval is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond the date of its passage and approval could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1646, § 34: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that changes in the state's fiscal laws must take effect at the beginning of the fiscal year and that if the current legislative session is extended such that the 90 day period is later than July 1, 2001 such changes will not be timely. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1681, § 1: Jan. 1, 2002.

Acts 2001, No. 1681, § 5: Apr. 16, 2001, except § 4, effective July 1, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act transfers to the General Improvement Fund those revenues that formerly went to the Economic Development of Arkansas Fund; that those monies transferred to the General Improvement Fund have been appropriated effective July 1, 2001, and that Section 4 of this act must go into effect on July 1, 2001, in order to fund those appropriations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety, Section 4 of this act shall become effective on July 1, 2001, and the remaining sections of this act shall

become effective on the date of approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Sections 1, 2, and 3 shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Sections 1, 2, and 3 shall become effective on the date the last house overrides the veto."

Acts 2002 (1st Ex. Sess.), No. 2, § 12: June 12, 2002. Emergency clause provided: "It is found and determined by the General Assembly that the budgetary crisis facing this state may require large reductions in the state Medicaid program, which reductions will cut three federal matching dollars for each state dollar, resulting in a serious threat to the ability of the state Medicaid program to provide adequate care to the state's neediest citizens. Setting aside funds for an Arkansas Rainy Day Fund by shifting the Prevention and Cessation Program Account to a current year budget will make moneys available to assist the state Medicaid program in maintaining its established levels of service in the event that the current revenue forecast is not collected. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 28, § 23: July 1, 2003. Emergency clause provided: "It is hereby found and determined by the Eighty-fourth General Assembly that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2003 have been made by the Eighty-

fourth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2003."

Acts 2003, No. 69, § 13: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2003 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2003."

Acts 2003, No 1266, § 5: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is serious overcrowding in Department of Correction facilities; that the overcrowding is likely to worsen if alternative sentencing measures are not enacted; and that this act is immediately necessary because it is designed to establish a procedure to help alleviate the overcrowding by offering sentencing alternates to person charged with certain drug offenses and should be given immediate effect. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2003, No. 1723, § 15: Apr. 22, 2003. Emergency clause provided: "It is found and determined by the Eighty-fourth General Assembly that there is a pressing and immediate need for the construction of a modern public health laboratory; that this act will provide adequate funding for the construction of the laboratory; and that this act must become effective immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the pres-

ervation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 1774, § 17: Apr. 22, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the discharge of untreated sewage from vessels into waters of the State of Arkansas poses a serious threat to the public health and the environment; that such a serious threat needs to be rectified immediately; and that this act improves the state's ability to enforce laws relative to marine sanitation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 1816, § 3: became law without Governor's signature, May 6, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Joint Committee on Educational Adequacy must report its findings by September 1, 2003; that health care adequacy among school age children in Arkansas is an essential component of any definition of educational adequacy; that the initial reports of the Health Adequacy Committee created by this act must be available to the Joint Committee on Educational Adequacy before the formulation of the final report. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 70, § 7: Feb. 2, 2004. Emergency clause provided: "It is found and determined by the General Assembly that the State of Arkansas is in great need of additional revenues for improvements, construction, or repair of public school facilities and that providing a tax penalty and interest amnesty program will result in substantial additional revenues. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 2005, No. 20, § 18: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2005 have been made by the Eighty-Fifth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of

the public peace, health, and safety shall become effective on July 1, 2007.”

Acts 2007, No. 530, § 10: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2007 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007.”

Acts 2007, No. 1055, § 8: July 1, 2007, except § 5, effective Apr. 4, 2007. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas requires an adequate education system for the state and that the efficient and effective operation of state government is critical to the health and welfare of the citizens of the state; that the provisions of this Act will provide the necessary funds and procedures to assist in alleviating the effects of an economic downturn on essential government programs; that the effectiveness of this Act on July 1, 2007 is essential to the operation of state government; with the exception that Section 5 in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007, with the exception that Section 5 in this Act shall be in full force and effect from and after the date of its passage and approval, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007; with the exception that Section 5 in this Act shall be in full force and effect

from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date of the last house overrides the veto.”

Acts 2009, No. 610, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009.”

Acts 2009, No. 762, § 12: Sept. 1, 2009.

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 294, § 11: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of

funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

Acts 2011, No. 860, § 3: May 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Capitol Grounds Monument and Memorial Preservation Fund is unfunded; that the monuments and memorial areas on the State Capitol grounds often need maintenance and repair; that clarification is necessary so that the Secretary of State can perform his duties; and that this act is necessary to provide the necessary funding for the Arkansas Capitol Grounds Monument and Memorial Preservation Fund. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2011."

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 438, § 3: July 1, 2013. Emergency clause provided: "It is hereby found and determined by the General Assembly that the effectiveness of this Act on July 1, 2013 is essential to the operation of programs supported by funds deposited into and contained in the Securities Department Fund, and that in the event of the extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2013 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2013."

Acts 2013, No. 489, § 6: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

Acts 2013, No. 545, § 3: Jan. 1, 2014.

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth Gen-

eral Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Identical Acts 2014, Nos. 290 and 299, § 15: July 1, 2014.

Acts 2015, No. 856, § 10: Mar. 31, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain driver license fees are needed to provide vital services to the Department of Arkansas State Police; that this act will allow the use of those fees; and that this act is immediately necessary to provide a source of revenues to the department. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 895, § 49: Apr. 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that prison overcrowding is one of the largest problems currently burdening the state both from a public safety and budgetary standpoint; that safe and effective measures are needed to immediately combat this problem; and that this act is immediately necessary because in the interests of public safety and the state budget the Department of Correction, Department of Community Correction, Department of Human Services, and the Parole Board should be allowed to immediately implement these new measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is

vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 1185, § 9: Jan. 1, 2016.

Acts 2015, No. 1207, § 5: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2015 have been made by the Ninetieth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017. Effective date clause provided: “Sections 9-12, 14, 16 and 17 of this act are effective on and after July 1, 2017.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 23: July 1, 2016, §§ 1-8, 13, 15, and 18-21. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016.”

19-6-401. Funds generally.

There are created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the following funds which shall consist of those special revenues enumerated in this subchapter for the purpose of each fund.

History. Acts 1973, No. 808, § 14;
A.S.A. 1947, § 13-503.13.

19-6-402. Arkansas Department of Aeronautics Fund.

The Arkansas Department of Aeronautics Fund shall consist of those special revenues as specified in § 19-6-301(17), there to be used for making grants-in-aid to qualifying airports of this state as authorized by law and for the maintenance, operation, and improvement required by the Arkansas Department of Aeronautics in carrying out the functions, powers, and duties, as set out in § 27-114-101 et seq., or other duties imposed by law upon the department.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-1979, No. 1027, § 6; 1981, No. 938, § 15; 503.13.

19-6-403. Department of Correction Farm Fund.

The Department of Correction Farm Fund shall consist of those revenues as specified in § 19-6-301(42), there to be used for the maintenance, operation, and improvement of the Department of Correction's farming operations. Any surplus accruing in the fund shall, upon determination of that surplus, be transferred to the Department of Correction Inmate Care and Custody Fund Account.

History. Acts 1973, No. 808, § 14;
A.S.A. 1947, § 13-503.13.

19-6-404. Department of Arkansas State Police Fund.

The Department of Arkansas State Police Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(1), (5), (7), (8), (38)-(40), (94), (150), (168), (175), (184)-(186), (190), (218)-(220), (222), (226), (227), (234), and (252);

(2) Moneys transferred or deposited from the State Administration of Justice Fund;

(3) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement of the Department of Arkansas State Police in carrying out the functions, powers, and duties as stated in § 12-8-106 or other duties imposed by law upon the department;

(4) Any revenues credited to the Department of Arkansas State Police Fund under the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, § 12-8-601 et seq.; and

(5) Federal reimbursements received for eligible expenditures by the various programs of the department made payable from the Department of Arkansas State Police Fund.

History. Acts 1973, No. 808, § 14; 1981, No. 938, § 17; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1991, No. 76, § 3; 1993, No. 1072, § 5; 1995, No. 270, § 4; 1997, No. 298, § 3; 1999, No. 282, § 5; 2003, No. 28, § 17; 2005, No. 20, § 8; 2007, No. 407, § 7; 2014, No. 290, § 8; 2014, No. 299, § 8; 2015, No. 856, § 7; 2015, No. 1207, § 2.

A.C.R.C. Notes. Identical Acts 2014, Nos. 290 and 299, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law.”

Identical Acts 2014, Nos. 290 and 299, § 14, provided: “DUPLICATE ACTS. If

HB 1159 and SB 147 of the 2014 Fiscal Session of the 89th General Assembly are both enacted and adopted by the 89th General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Amendments. The 2014 amendment by identical acts Nos. 290 and 299, in (1), deleted “(56)” preceding “(94)” and added “and (252)”.

The 2015 amendment by No. 856, in (1), deleted (128) and (202); substituted “stated in” for “set out by” in (3); and added (4).

The 2015 amendment by No. 1207 added (4) [now (5)].

19-6-405. State Highway and Transportation Department Fund.

The State Highway and Transportation Department Fund shall consist of:

(1) That part of the special revenues as specified in § 19-6-301(2)-(4), (22), (81), (105)-(107), and (182), known as “highway revenue”, as distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., and § 27-70-103 and § 27-72-301 et seq.;

(2) Those special revenues specified in § 19-6-301(10), (152), (187), (239), and (241);

(3) Fifty percent (50%) of § 19-6-301(26);

(4) That portion of § 19-6-301(2) as set out in § 27-14-601(a)(3)(H)(ii)(f);

(5) That portion of § 19-6-301(222);

(6) Those designated revenues as set out in § 26-56-201(e)(1), which consist of the additional total of four cents (4¢) distillate special fuel taxes to be distributed as provided in the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq.;

(7) Federal revenue sharing funds as set out in § 19-5-1005; and

(8) Any federal funds which may become available, there to be used for the maintenance, operation, and improvement required by the Arkansas State Highway and Transportation Department in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 42, and §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 8; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No.

792, § 4; 1991, No. 1040, § 2; 1991, No. 1239, § 2; 1993, No. 1072, § 6; 1995, No. 270, § 5; 1997, No. 298, § 4; 2001, No.

229, § 8; 2005, No. 20, § 9; 2009, No. 1464, § 5.

A.C.R.C. Notes. Acts 1991, No. 1040, § 3, in part, provided: "Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree."

Acts 1991, No. 1040, § 4, provided: "(a) This Act shall be liberally construed to accomplish the purposes thereof. This Act shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

"(b) This Act shall be interpreted to supplement existing laws conferring rights and powers upon the Authority and the Commission, and the rights and powers set forth herein shall be regarded as alternative methods for the accomplishment of the purposes of this Act."

Acts 1991, No. 1239, § 3, provided: "If, for any reason any Section or provision of this Act shall be held to be unconstitutional or invalid for any reason, such hold-

ing shall not affect the remainder of this Act, but this Act, insofar as it is not in conflict with the Constitution of this State or the Constitution of the United States, shall be permitted to stand, and the various provisions of this Act are hereby declared to be severable for that purpose. Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree."

Acts 1991, No. 1239, § 4, provided: "(a) This Act shall be liberally construed to accomplish the purposes thereof. This Act shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

"(b) This Act shall be interpreted to supplement existing laws conferring rights and powers upon the Authority and the Commission, and the rights and powers set forth herein shall be regarded as alternative methods for the accomplishment of the purposes of this Act."

CASE NOTES

Cited: *Arkansas Motor Carriers Ass'n v. Pritchett*, 303 Ark. 620, 798 S.W.2d 918 (1990).

19-6-406. Public Service Commission Fund.

The Public Service Commission Fund shall consist of those special revenues as specified in § 19-6-301(70), (71), and (98), there to be used for the maintenance, operation, and improvement required by the Arkansas Public Service Commission in carrying out the functions, powers, and duties as set out in § 23-2-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 503.13; Acts 2001, No. 229, § 9; 2005, No. 1983, No. 222, § 5; A.S.A. 1947, § 13-20, § 10.

19-6-407. Liquefied Petroleum Gas Fund.

The Liquefied Petroleum Gas Fund shall consist of those special revenues as specified in § 19-6-301(32), there to be used for the maintenance, operation, and improvement required by the Liquefied Petroleum Gas Board in carrying out the functions, powers, and duties as set out in the Liquefied Petroleum Gas Board Act, § 15-75-101 et seq., or other duties imposed by law upon the board.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13.

19-6-408. Plant Board Fund.

The Plant Board Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(46), (49)-(55), (122), (169), (221), and (225);

(2) Thirty-one cents (31¢) of the fertilizer inspection fees as set out in § 19-6-301(48);

(3) All of those special revenues in § 19-6-301(47) with the exception of ten cents (10¢) of the thirty cents (30¢) for tonnage reports;

(4) Nonrevenue receipts from the Fire Ant Poison Cost Sharing Program, § 2-16-105, fees and civil penalties collected under the Arkansas Rice Certification Act, § 2-15-201 et seq., civil penalties collected under the Uniform Weights and Measures Law, § 4-18-301 et seq.; and

(5) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement required by the State Plant Board in carrying out the functions, powers, and duties as set out in § 2-16-201 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1989, No. 551, § 4; 1993, No. 1073, § 26; 1995, No. 270, § 6; 2005, No. 20, § 11; 2007, No. 407, § 8.

A.C.R.C. Notes. Acts 1993, No. 1073, § 27, provided: "Any enactment of the

Seventy-Ninth General Assembly redesignating the payment of appropriations for the Bureau of Standards from the Bureau of Standards Fund is instead redesignated payable from the Plant Board Fund."

Cross References. Civil penalties, § 4-18-323.

19-6-409. Poultry and Egg Grading Fund.

The Poultry and Egg Grading Fund shall consist of that portion of those special revenues derived from the poultry and egg industry as specified in § 19-6-301(34), there to be used for the maintenance, operation, and improvement required by the Arkansas Livestock and Poultry Commission poultry and egg grading programs, in carrying out the functions, powers, and duties as set out in § 2-33-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

19-6-410. Oil and Gas Commission Fund.

The Oil and Gas Commission Fund shall consist of those special revenues as specified in § 19-6-301(62) and (111), there to be used for the maintenance, operation, and improvement required by the Oil and Gas Commission in carrying out the functions, powers, and duties as set out in § 15-72-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; 1983, No. 801, § 2; A.S.A. 1947, § 13-503.13.

A.C.R.C. Notes. Acts 2016, No. 181, § 6, provided: "FUND TRANSFER. The Oil and Gas Commission, after receiving review from the Chief Fiscal Officer of the State and the Legislative Council, may request the Chief Fiscal Officer to transfer

up to \$2,000,000 per year on his or her books and the books of the State Treasurer and the Auditor of the State from the Oil and Gas Commission Fund to the Abandoned and Orphaned Well Plugging Fund.

"The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017."

19-6-411. State Forestry Fund.

The State Forestry Fund shall consist of those special revenues as specified in § 19-6-301(6) and (18) excluding twenty-five percent (25%) of all other severance taxes as set out in § 19-6-301(18), fifty percent (50%) of § 19-6-301(26), and such general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement required by the Arkansas Forestry Commission in carrying out the functions, powers, and duties as set out in § 15-31-101 et seq., or other duties imposed by law upon the commission.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 7; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13.

A.C.R.C. Notes. Acts 2015, No. 890, § 45, provided: "REFUND TO EXPENDITURE. The Arkansas Forestry Commission is authorized to charge fees to federal agencies and other states to reimburse the

Commission for expenditures made on behalf of these governmental units. These fees shall be deposited into the State Forestry Fund in the State Treasury as a refund to expenditure.

"The provisions of this section shall be in effect only from July 1, 2015 through June 30, 2016."

19-6-412. Bank Department Fund.

The Bank Department Fund shall consist of those special revenues as set out in § 19-6-301(28)-(30), there to be used for the maintenance, operation, and improvement required by the State Bank Department in carrying out the functions, powers, and duties as set out in §§ 23-46-201 — 23-46-207, or other duties imposed by law upon the department.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2003, No. 28, § 18.

19-6-413. [Repealed.]

Publisher's Notes. This section, concerning the Cosmetology Operating Fund, was repealed by Acts 2011, No. 1008, § 6.	The section was derived from Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2003, No. 69, § 4.
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19-6-414. [Repealed.]

Publisher's Notes. This section, concerning the Cosmetology Board Construction Fund, was repealed by Acts 2003, No. 69, § 9. The section was derived from Acts	1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 1997, No. 298, § 5. For present law, see § 19-6-413.
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19-6-415. Arkansas Abstracters' Board Fund.

The Arkansas Abstracters' Board Fund shall consist of those special revenues as specified in § 19-6-301(93), there to be used for the maintenance, operation, and improvement of the Arkansas Abstracters' Board.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2009, No. 1464, § 6.

19-6-416. [Repealed.]

Publisher's Notes. This section, concerning the Department of Labor Boiler Inspection Fund, was repealed by Acts 2001, No. 577, § 3. The section was de-	rived from Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13. For present law, see § 19-5-1211.
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19-6-417. Department of Health Plumbers Licensing Fund.

The Department of Health Plumbers Licensing Fund shall consist of those special revenues as specified in § 19-6-301(64), there to be used for the maintenance, operation, and improvement required by the Plumbing Section of the Environmental Health Services Division of the Department of Health in carrying out the powers, functions, and duties as set out in § 17-38-101 et seq., and for paying the expenses of administering such funds as may be authorized by law.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-418. Office of Hazardous Materials Emergency Management Revolving Fund.

The Office of Hazardous Materials Emergency Management Revolving Fund shall consist of those special revenues as specified in § 19-6-

301(115), there to be used for the operations of the Office of Hazardous Materials Emergency Management and the enforcement of the Arkansas HAZMAT Emergency Management Act, § 12-84-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1997, No. 298, § 6.

19-6-419. Soybean Promotion Fund.

The Soybean Promotion Fund shall consist of those special revenues as specified in § 19-6-301(12), there to be used for the maintenance, operation, and improvement as required by the Arkansas Soybean Promotion Board in carrying out the powers, functions, and duties as set out in § 2-20-401 et seq.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-420. Game Protection Fund.

The Game Protection Fund shall consist of those special revenues as specified in § 19-6-301(63), thirty-four percent (34%) of those special revenues as specified in § 19-6-301(20), and license plate design-use contribution fees collected under § 27-24-905(b)(2), there to be used for the maintenance, operation, and improvement required by the Arkansas State Game and Fish Commission in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 35, and other laws enacted by the General Assembly.

History. Acts 1973, No. 808, § 14; 551, § 5; 2005, No. 20, § 12; 2007, No. A.S.A. 1947, § 13-503.13; Acts 1989, No. 407, § 9.

19-6-421. Indigent Patient's Fund.

The Indigent Patient's Fund shall consist of those special revenues as specified in § 19-6-301(15), there to be used to defray the cost of hospitalization and medical services provided to indigent Arkansas patients and for such other purposes as may be authorized or appropriated by law.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2001, No. 1646, § 26.

19-6-422. [Repealed.]

Publisher's Notes. This section, concerning the Firemen's Relief and Pension Fund, was repealed by Acts 2001, No. 229, § 14. The section was derived from Acts

1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

For present law, see § 19-6-454.

19-6-423. Department of Correction Prison Industry Fund.

The Department of Correction Prison Industry Fund shall consist of those special revenues as specified in § 19-6-301(43), there to be used for the maintenance, operation, and improvement of the Department of Correction's prison industries activities.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13.

19-6-424. Motor Vehicle Commission Fund.

The Motor Vehicle Commission Fund shall consist of those special revenues as specified in § 19-6-301(99), there to be used for the operation, maintenance, improvement, and motor vehicle education and training required by the Arkansas Motor Vehicle Commission in exercising the powers, functions, and duties as set out in the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13; Acts 2007, No. 530, § 7.

19-6-425. Public Service Commission Utility Safety Fund.

The Public Service Commission Utility Safety Fund shall consist of those special revenues as specified in § 19-6-301(100), there to be used for the maintenance, operation, and improvement of the Office of Pipeline Safety of the Arkansas Public Service Commission in exercising the powers, functions, and duties as set out in the Arkansas Natural Gas Pipeline Safety Act of 1971, § 23-15-201 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13.

19-6-426. Arkansas Museum of Natural Resources Fund.

The Arkansas Museum of Natural Resources Fund shall consist of those special revenues as specified in § 19-6-301(61) and (101), there to be used for the construction, maintenance, operation, and improvement of the Arkansas Museum of Natural Resources in exercising the powers, functions, and duties as set out in § 13-5-401 et seq., and for paying the expenses of administering such funds by the department as may be authorized by law.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2009, No. 1979, No. 1027, § 9; 1983, No. 222, § 5; 251, § 23.

19-6-427. Manufactured Home Standards Fund.

The Manufactured Home Standards Fund shall consist of those special revenues as specified in § 19-6-301(102), there to be used for the maintenance, operation, and improvement of the Arkansas Manufactured Home Commission in exercising the powers, functions, and duties as set out in the Arkansas Manufactured Homes Standards Act, § 20-25-101 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13.

19-6-428. [Repealed.]

Publisher's Notes. This section, concerning the Severed Resources Fund, was repealed by Acts 2009, No. 610, § 7. The section was derived from Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No.

1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6; 2008 (1st Ex. Sess.), No. 4, §§ 4, 5; 2008 (1st Ex. Sess.), No. 5, §§ 4, 5.

19-6-429. Veterinary Examiners Board Fund.

The Veterinary Examiners Board Fund shall consist of those special revenues as specified in § 19-6-301(95), there to be used for the operation, maintenance, and improvement of the Veterinary Medical Examining Board in exercising the powers, functions, and duties as set out in the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; A.S.A. 1947, § 13-503.13.

19-6-430. [Repealed.]

Publisher's Notes. This section, concerning the Tuberculosis Sanatorium Lease Fund, was repealed by Acts 2007, No. 407, § 10. The section was derived

from Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1985, No. 65, § 6; A.S.A. 1947 § 13-503.13.

19-6-431. [Repealed.]

Publisher's Notes. This section, concerning the Policemen's Pension and Relief Fund, was repealed by Acts 2001, No.

229, § 15. The section was derived from Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law, see § 19-6-454.

19-6-432. Community Correction Revolving Fund.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Community Correction Revolving Fund".

(b) The fund shall consist of those special revenues as specified in § 19-6-301(31) and fees and sanctions levied by the courts or authorized by the Board of Corrections for participation in specified programs to be paid by offenders on community correction, there to be used for continuation and expansion of community correction programs as established and approved by the board and as may be provided by law.

History. Acts 1993, No. 953, § 5.

A.C.R.C. Notes. Acts 2001, No. 323, § 4 provided: "The 'Community Punishment Revolving Fund', as established in Arkansas Code 12-27-133 and 19-6-432, shall hereafter be known as the 'Community Correction Revolving Fund'."

Publisher's Notes. Former § 19-6-432, concerning the Community Service Revolving Fund, was repealed by Acts 1993, No. 953, § 17. The former section was derived from Acts 1973, No. 808,

§ 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

Acts 1993, No. 953, § 5, is also codified as § 12-27-133.

Acts 1993, No. 953, § 5, provided, in part: "Any fund balances of the Arkansas Adult Probation Commission Fund and the Community Services Revolving Fund on June 30, 1993 shall be transferred to the Community Punishment Revolving Fund."

19-6-433. Livestock and Poultry Equine Infectious Anemia Control Fund.

The Livestock and Poultry Equine Infectious Anemia Control Fund shall consist of those special revenues as specified in § 19-6-301(195), there to be used for the purpose of defraying the costs of services performed in the Equine Infectious Anemia Control and Eradication Program as set out in § 2-40-801 et seq.

History. Acts 1999, No. 282, § 8.

Publisher's Notes. Former § 19-6-433, concerning the Court Reporters' Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts

1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law concerning the Court Reporters' Fund, see § 19-5-1082.

19-6-434. Hazardous Waste Permit Fund.

The Hazardous Waste Permit Fund shall consist of those special revenues as specified in § 19-6-301(59) and (237) there to be used by the Arkansas Department of Environmental Quality to ensure the proper administration and enforcement of §§ 8-7-201 — 8-7-226 and the Phase I Environmental Site Assessment Consultant Act, § 8-7-1301 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13; Acts 1999, No. 1164, § 169; 2007, No. 407, § 11.

19-6-435. Arkansas Nuclear Planning and Response Fund.

The Arkansas Nuclear Planning and Response Fund shall consist of those special revenues as specified in § 19-6-301(60), there to be used for the operation and maintenance of the Arkansas Nuclear Planning and Response Program, as set out in § 20-21-401 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-436. [Repealed.]

Publisher's Notes. This section, concerning the Board of Electrical Examiners Fund, was repealed by Acts 2001, No. 577, § 4. The section was derived from Acts

1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

For present law, see § 19-5-1211.

19-6-437. Milk Inspection Fees Fund.

The Milk Inspection Fees Fund shall consist of those special revenues as specified in § 19-6-301(73), there to be used exclusively for the purpose of defraying the cost of maintenance, operation, and improvement of the Grade "A" milk and milk products inspection program, and any other revenues as may be provided by law.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

also provided for disposition of any unexpended balance of milk inspection fees received prior to March 18, 1981.

Publisher's Notes. Part of this section

19-6-438. Board of Dispensing Opticians' Fund.

The Board of Dispensing Opticians' Fund shall consist of those special revenues as specified in § 19-6-301(108), there to be used for the administration, coordination, and enforcement of the Ophthalmic Dispensing Act, § 17-89-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-439. Arkansas State Board of Nursing Fund.

The Arkansas State Board of Nursing Fund shall consist of those special revenues as specified in § 19-6-301(109), there to be used by the Arkansas State Board of Nursing in exercising the powers, functions, and duties as set out in § 17-87-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13.

19-6-440. Social Work Licensing Fund.

The Social Work Licensing Fund shall consist of those special revenues as specified in § 19-6-301(110), there to be used by the Arkansas Social Work Licensing Board in exercising the powers, functions, and duties as set out in the Social Work Licensing Act, § 17-103-101 et seq.

History. Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13; Acts 1999, No. 1122, § 4.

19-6-441. Arkansas Beef Council Fund.

The Arkansas Beef Council Fund shall consist of those special revenues as specified in § 19-6-301(113), there to be used in such manner as the Arkansas Beef Council deems appropriate for Arkansas beef promotion and research and for the operation and maintenance of the council office and payment of expenses of the council members as set out in § 2-35-301 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13.

19-6-442. County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund.

The County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund shall consist of those special revenues as specified in § 19-6-301(119), there to be used for defraying the expenses of training seminars and other educational projects benefiting county and circuit clerks in this state as set out in §§ 16-20-105 and 16-20-110 and § 26-60-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 2009, No. 480, § 3. **Cross References.** Disposition of funds collected, § 26-60-112.

19-6-443. Arkansas Child Passenger Protection Fund.

The Arkansas Child Passenger Protection Fund shall consist of those special revenues as specified in § 19-6-301(67) and other moneys that may be appropriated, allocated, or donated to the fund, there to be used by the Arkansas Highway Safety Program for the purchase of child passenger safety seats as set out in the Child Passenger Protection Act, § 27-34-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13.

19-6-444. [Repealed.]

Publisher's Notes. This section, concerning the Arkansas Department of Environmental Quality Fee Fund, was repealed by Acts 2009, No. 1464, § 7. The

section was derived from Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1995, No. 270, § 7; 1999, No. 1164, § 170.

19-6-445. Arkansas Wine Producers Council Fund.

The Arkansas Wine Producers Council Fund shall consist of all funds as may be authorized by law, there to be used for promoting the Arkansas native wine industry, as directed by the Arkansas Wine Producers Council and as set out in § 3-5-701 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13.

19-6-446. Arkansas Corn and Grain Sorghum Promotion Board Fund.

The Arkansas Corn and Grain Sorghum Promotion Board Fund shall consist of those special revenues as specified in § 19-6-301(196), there to be used for administration, research, and extension to promote the corn and grain sorghum industry, as set out in § 2-20-801 et seq.

History. Acts 1999, No. 282, § 9.

Publisher's Notes. Former § 19-6-446, concerning the Highway Safety Special Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts 1973, No. 808, § 14; 1985, No. 65,

§ 7; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1995, No. 270, § 15.

For present law concerning the Highway Safety Special Fund, see § 19-5-1080.

19-6-447. DNA Detection Fund.

The DNA Detection Fund shall consist of those special revenues as specified in § 19-6-301(197), there to be used for the administration of the State Convicted Offender DNA Data Base Act, § 12-12-1101 et seq.

History. Acts 1999, No. 282, § 10.

Publisher's Notes. Former § 19-6-447, concerning the Alcohol and Drug Safety Fund, was repealed by Acts 1995, No. 1032, § 9. The section was derived

from Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4.

For present law, see §§ 19-5-307 and 19-5-1083.

19-6-448. Livestock and Poultry Commission Disease and Pest Control Fund.

The Livestock and Poultry Commission Disease and Pest Control Fund shall consist of any funds authorized by law and those special revenues as specified in § 19-6-301(126), there to be used in order to fund or partially fund the bovine disease control and eradication program as provided in § 2-40-206.

History. Acts 1973, No. 808, § 14; and", substituted "bovine disease" for 1985, No. 888, § 14; A.S.A. 1947, § 13-503.13; Acts 2015, No. 342, § 2. "brucellosis", and "provided in § 2-40-206" for "set out in Act 150 of 1985 and Act 151 of 1985".

Amendments. The 2015 amendment inserted "any funds authorized by law

19-6-449. Arkansas Wheat Promotion Fund.

The Arkansas Wheat Promotion Fund shall consist of those special revenues as specified in § 19-6-301(127), there to be used for the operation of the Arkansas Wheat Promotion Board as set out in §§ 2-20-601 — 2-20-609.

History. Acts 1973, No. 808, § 14; 1985, No. 888, § 14; A.S.A. 1947, § 13-503.13.

19-6-450. Individual Sewage Disposal Systems Improvement Fund.

The Individual Sewage Disposal Systems Improvement Fund shall consist of that portion of those special revenues as specified in § 19-6-301(58), there to be used by the Division of Environmental Health Protection of the Department of Health for, and in the manner recommended by, the Individual Sewage Disposal Systems Advisory Committee for implementation of the utilization and application of alternate and experimental individual sewage disposal systems as set out in the Arkansas Sewage Disposal Systems Act, § 14-236-101 et seq.

History. Acts 1973, No. 808, § 14; 503.13; Acts 1989, No. 551, § 6; 1993, No. 1985, No. 65, § 7; A.S.A. 1947, § 13-1072, § 7.

19-6-451. Arkansas Rice Research and Promotion Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Arkansas Rice Research and Promotion Fund".

(b) The fund shall consist of those special revenues as specified in § 19-6-301(35) there to be used for the operation of the Arkansas Rice Research and Promotion Board as set out in the Arkansas Rice Research and Promotion Act of 1999, § 2-20-501 et seq.

(c) The fund shall be used for the operation of the board in carrying out the powers, functions, and duties as may be provided by law and shall consist of those revenues as may be provided by law.

History. Acts 1985, No. 732, § 2; A.S.A. 1947, § 13-563; Acts 1987, No. 792, § 4.

19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of the special revenues specified in § 19-6-301(130) and any other revenues authorized by law,

there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable asbestos materials from facilities by the Arkansas Department of Environmental Quality under §§ 20-27-1001 — 20-27-1007.

History. Acts 1987, No. 792, § 5; 1999, No. 1164, § 171; 2013, No. 489, § 1.

Amendments. The 2013 amendment inserted “and any other revenues autho-

rized by law”, and substituted “under § 20-27-1001 — 20-27-1007” for “as set out in § 20-27-1001 et seq.” and made stylistic changes.

19-6-453. Boating Safety Account Fund.

The Boating Safety Account Fund shall consist of those special revenues as specified in § 19-6-301(20) there to be distributed in the manner and to the various funds as provided in § 27-101-111.

History. Acts 1989, No. 551, § 7.

19-6-454. Firemen’s and Police Officers’ Pension and Relief Fund.

The Firemen’s and Police Officers’ Pension and Relief Fund shall consist of those special revenues as specified in § 19-6-301(27), there to be used for distribution to the various qualified city, town, or fire protection district police officers’ pension and relief funds and firemen’s pension funds as set out in § 24-11-301.

History. Acts 2001, No. 229, § 10.

A.C.R.C. Notes. Acts 2013, No. 1443, § 78, provided: “On July 1, 2013, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of State the balances of the Arkansas Fire and Police Pension Guarantee Fund to the

Firemen’s and Police Officers’ Pension and Relief Fund.”

Publisher’s Notes. Former § 19-6-454, concerning the Child Care Providers’ Fund, was repealed by Acts 1999, No. 282, § 12. The section was derived from Acts 1989, No. 551, § 7; 1997, No. 298, § 7.

19-6-455. Sex and Child Offenders Registration Fund.

The Sex and Child Offenders Registration Fund shall consist of those special revenues as specified in § 19-6-301(198), there to be used for the administration of the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq.

History. Acts 1999, No. 282, § 11; 2015, No. 1207, § 3.

Publisher’s Notes. Former § 19-6-455, concerning the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund, was repealed by Acts 1997, No. 298, § 14. The section was derived from Acts 1989, No. 551, § 7.

For present law concerning the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund, see § 19-5-1083.

Amendments. The 2015 amendment substituted “Offenders” for “Offender” in the section heading and the section.

19-6-456. Nursing Home Personnel Training Fund.

The Nursing Home Personnel Training Fund shall consist of those special revenues as specified in § 19-6-301(138), there to be utilized by the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services for development and implementation of training programs as set out in § 20-10-401 et seq.

History. Acts 1989, No. 551, § 7.

19-6-457. [Repealed.]

Publisher's Notes. This section, concerning the Aging and Adult Services Special Revenue Fund, was repealed by Acts

2003, No. 28, § 21. The section was derived from Acts 1989 (3rd Ex. Sess.), No. 85, § 1; 1995, No. 1032, § 6.

19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.

There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Developmental Disabilities Services — Dog Track Special Revenue Fund" that shall consist of those special revenues as specified in § 19-6-301(16), there to be used for the sole benefit of community programs of the Division of Developmental Disabilities Services of the Department of Human Services licensed by the division.

History. Acts 1989 (3rd Ex. Sess.), No. 85, § 2; 2003, No. 28, § 19; 2009, No. 251, § 24.

19-6-459. Commercial Driver License Fund.

The Commercial Driver License Fund shall consist of those special revenues as specified in § 19-6-301(148), there to be used to establish and maintain the Arkansas Commercial Driver License program and for other related purposes as required by the Commissioner of Motor Vehicles in carrying out the functions, powers, and duties of the Revenue Division of the Department of Finance and Administration, as set out in the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.

History. Acts 1991, No. 76, § 4.

A.C.R.C. Notes. Acts 2016, No. 117, § 16, provided: "COMMERCIAL DRIVER LICENSE FUND TRANSFER. The Chief Fiscal Officer of the State shall at each end of the fiscal year cause to be transferred into the State Central Services Fund the excess of the Commercial Driver License Fund funds over an amount equal to the three (3) most recent fiscal year budgets of the Commercial Driver License

Fund to defray state support for related purposes, including but not limited to personal services and operating expenses, as required to carry out the functions, powers and duties of the Revenue Division of the Department of Finance and Administration pursuant to A.C.A. 19-6-459 and 27-23-124.

"The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017."

19-6-460. Crime Lab Equipment Fund.

The Crime Lab Equipment Fund shall consist of those special revenues as specified in § 19-6-301(30) and other moneys as authorized by law, there to be used only for the purchase of equipment, constructing and equipping regional crime laboratories, and for the personal services and operating expenses of regional crime laboratories as set out in § 12-12-323.

History. Acts 2001, No. 229, § 11; 2001, No. 1642, § 4.

Publisher's Notes. Former § 19-6-460, concerning the Department of Hu-

man Services Uninsured Children's Fund, was repealed by Acts 1999, No. 282, § 13.

The section was derived from Acts 1991, No. 76, § 4.

19-6-461. Arkansas Public Art Program Fund.

The Arkansas Public Art Program Fund shall consist of those special revenues as specified in § 19-6-301(123), there to be used for the administration of the Arkansas Public Art Program by the Arkansas Arts Council as set out in § 13-8-201 et seq.

History. Acts 1993, No. 1072, § 8.

A.C.R.C. Notes. Former § 19-6-461, concerning the Drug Abuse Prevention and Statistical Reporting Fund, is deemed

to be superseded by this section. The former section was derived from Acts 1991, No. 76, § 4.

19-6-462. Private Career Education Fund.

The Private Career Education Fund shall consist of those special revenues as specified in § 19-6-301(24), there to be used for the maintenance and operations of the State Board of Private Career Education in carrying out the functions, powers, and duties as set out in § 6-51-601 et seq.

History. Acts 1991, No. 76, § 4.

19-6-463. Regulated Substance Storage Tank Program Fund.

The Regulated Substance Storage Tank Program Fund shall consist of those special revenues as specified in § 19-6-301(153) federal funds, and any state matching funds as may be provided by the General Assembly, there to be used for the administration of the Regulated Substance Storage Tank program as set out in § 8-7-801 et seq.

History. Acts 1991, No. 76, § 4.

19-6-464. Arkansas Catfish Promotion Fund.

The Arkansas Catfish Promotion Fund shall consist of those special revenues as specified in § 19-6-301(151), there to be used for Arkansas catfish promotion and research and for the operation and maintenance of the Arkansas Catfish Promotion Board office and payment of board member expenses, as set out in § 2-9-112.

History. Acts 2001, No. 229, § 12.

Publisher's Notes. A parallel section concerning the Arkansas Catfish Promo-

tion Fund, § 19-5-1091, was repealed by Acts 2001, No. 1646, § 15.

19-6-465. Child Care Fund.

The Child Care Fund shall consist of those special revenues as specified in § 19-6-301(133) and (157) and moneys received from the Department of Human Services, there to be used by the Division of Child Care and Early Childhood Education of the Department of Human Services exclusively to provide grants to child care facilities for enhancement of the facility or for training of personnel in child care facilities and to meet the costs of conducting the statewide criminal records checks required under § 20-78-606, all as set out in the Child Care Facility Licensing Act, § 20-78-201 et seq.

History. Acts 1991, No. 76, § 4; 1999, No. 282, § 7; 2009, No. 762, § 3.

19-6-466. Livestock and Poultry Commission Swine Testing Fund.

The Livestock and Poultry Commission Swine Testing Fund shall consist of those special revenues as specified in § 19-6-301(159), there to be used for the Pseudorabies Control and Eradication Program as set out in § 2-40-1201.

History. Acts 1993, No. 1072, § 9.

A.C.R.C. Notes. Former § 19-6-466, concerning the Environmental Education

Fund, is deemed to be superseded by this section. The former section was derived from Acts 1991, No. 746, § 1.

19-6-467. Work Force 2000 Development Fund.

The Work Force 2000 Development Fund shall consist of those special revenues as specified in § 19-6-301(163) and all other revenues as may be authorized by law, there to be used exclusively for the authorized educational activities of those entities as set out in § 26-51-205(d)(1)(A) and (B) and as distributed under § 26-51-205(d)(2).

History. Acts 1991, No. 1052, § 2; 1993, No. 1072, § 10; 1999, No. 1315, § 4. 1052, § 2, is also codified as § 26-51-205(c)(1).

Publisher's Notes. Acts 1991, No.

19-6-468. Fire Protection Premium Tax Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Fire Protection Premium Tax Fund", which shall consist of those special revenues as specified in § 19-6-301(164), there to be used for fire protection services as set out in § 26-57-614 and § 14-284-401 et seq.

(b) The Insurance Commissioner shall immediately deposit all moneys collected under § 26-57-614 and § 14-284-401 et seq. into the Revenue Holding Fund Account as provided in § 19-5-204. On the last business day of each quarter, the Chief Fiscal Officer of the State shall determine the amount of net special revenues to be transferred to the Fire Protection Premium Tax Fund by the Treasurer of State. The Chief Fiscal Officer of the State shall be the disbursing officer for the Fire Protection Premium Tax Fund, and shall distribute the moneys as provided in § 26-57-614 and § 14-284-401 et seq.

(c) The Insurance Commissioner shall disburse any refunds which may be due insurance carriers from the Miscellaneous Revolving Fund after certifying to the Chief Fiscal Officer of the State the amount to be refunded. The Chief Fiscal Officer of the State shall direct that the certified amount be transferred from the Revenue Holding Fund Account to the Miscellaneous Revolving Fund as provided in § 19-5-106(a)(3).

History. Acts 1993, No. 1072, § 11.

19-6-469. HVACR Licensing Fund.

The HVACR Licensing Fund shall consist of those special revenues as specified in § 19-6-301(160), there to be used for the maintenance, operation, and improvement of the Heating, Ventilation, Air Conditioning, and Refrigeration (HVACR) Licensing and Inspection program of the Department of Health as set out in § 17-33-201 et seq.

History. Acts 1993, No. 1072, § 12.

19-6-470. [Repealed.]

Publisher's Notes. This section, concerning the Apprentice Plumbers Training Fund, was repealed by Acts 2011, No. 1008, § 7. The section was derived from Acts 1993, No. 1072, § 12.

19-6-471. Marketing Board Fund.

The Marketing Board Fund shall consist of those special revenues as specified in § 19-6-301(162), there to be used by the State Marketing Board for Recyclables for the administration and performance of its duties, as administered by the Arkansas Department of Environmental Quality as set out in § 8-9-201 et seq.

History. Acts 1993, No. 1072, § 12; 1999, No. 1164, § 172.

19-6-472. [Repealed.]

Publisher's Notes. This section, concerning the Economic Development of Arkansas Fund, was repealed by Acts 2001, No. 1681, § 2. The section was derived from Acts 1993, No. 590, § 1; 1995, No. 270, § 8.

19-6-473. Elder and Disabled Victims Fund.

The Elder and Disabled Victims Fund shall consist of those special revenues as specified in § 19-6-301(170), there to be used for the investigation and prosecution of deceptive acts against elder persons and individuals with disabilities and for consumer education initiatives directed toward elder persons and individuals with disabilities, law enforcement officers, the judicial system, social services professionals, and the general public on the provisions of the Arkansas Deceptive Trade Practices Act, § 4-88-101 et seq., and related statutes.

History. Acts 1993, No. 138, § 2; 1995, No. 270, § 9.

Publisher's Notes. Acts 1993, No. 138, § 2, is also codified as § 4-88-207.

19-6-474. State Police Equipment Fund.

(a) The State Police Equipment Fund shall consist of fifty percent (50%) of those special revenues as specified in § 19-6-301(176) and (235), and thirty-eight percent (38%) of the fees collected under § 12-12-1510(c), there to be used for:

(1) The acquisition, operation, and expansion of an automated fingerprint identification system;

(2) Personal services and operating expenses for conducting criminal background checks for noncriminal justice purposes;

(3) Those purposes as set out in § 12-12-1012(b) and § 12-12-1609; and

(4) Personal services and operating expenses as provided by law.

(b) Moneys remaining in the fund at the end of each fiscal year shall carry forward and be made available for the purposes stated in this section in the next fiscal year.

History. Acts 1993, No. 766, § 5; 1995, No. 270, § 10; 1999, No. 282, § 6; 2007, No. 407, § 12; 2015, No. 1185, § 6.

Amendments. The 2015 amendment added designation (a) and inserted “and

thirty-eight percent (38%) of the fees collected under § 12-12-1510(c)”; deleted “Effective July 1, 1997” at the beginning of (a)(3); and added (a)(4) and (b).

19-6-475. Securities Department Fund.

The Securities Department Fund shall consist of those special revenues as specified in § 19-6-301(211), the first four million dollars (\$4,000,000) of those special revenues as specified in § 19-6-301(173), (174), and (245), and such other funds as may be provided by law or regulatory action, there to be used for maintenance, operation, support, and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law, as set out in § 23-42-211.

History. Acts 1995, No. 270, § 11; 2005, No. 20, § 13; 2011, No. 294, § 7; 2011, No. 1008, § 8; 2013, No. 438, § 1.

Amendments. The 2011 amendment

by No. 294 substituted “July 1, 2013” for “July 1, 2011” and “two million dollars (\$2,000,000)” for “one million dollars (\$1,000,000)”.

The 2011 amendment by No. 1008 inserted "(245)".

The 2013 amendment substituted "the first four million dollars (\$4,000,000)" for

"and until July 1, 2013, the first two million dollars (\$2,000,000)".

19-6-476. [Repealed.]

Publisher's Notes. This section, concerning the Computerized Voter Registration Fund, was repealed by Acts 2007, No. 320, § 7. The section was derived from

Acts 1995, No. 270, § 11; 1997, No. 298, § 8.

Cross References. Computerized voter registration lists, § 7-5-109.

19-6-477. Governor's Commission on People with Disabilities Fund.

The Governor's Commission on People with Disabilities Fund shall consist of those special revenues as specified in § 19-6-301(200), there to be used for the purpose of funding activities of the Arkansas Governor's Commission on People with Disabilities, as set out in § 27-15-305.

History. Acts 2001, No. 229, § 13.

Publisher's Notes. Former § 19-6-477, concerning the Crater of Diamonds State Park Improvement Fund, was re-

pealed by Acts 1999, No. 15, § 5. The section was derived from Acts 1995, No. 270, § 11.

19-6-478. [Repealed.]

Publisher's Notes. This section, concerning the Voter Registration Signature Imaging System Fund, was repealed by

Acts 2005, No. 20, § 14. The section was derived from Acts 1995, No. 270, § 11; 1997, No. 1104, § 2.

19-6-479. Economic Development Incentive Fund.

The Economic Development Incentive Fund shall consist of those special revenues as specified in § 19-6-301(181), there to be used for financial incentive plans to provide businesses with an incentive to locate a new facility or expand an existing facility in Arkansas and for the other purposes as set out in the Arkansas Economic Development Incentive Act of 1993, § 15-4-1601 et seq.

History. Acts 1995, No. 270, § 11.

19-6-480. Livestock and Poultry Special Revenue Fund.

The Livestock and Poultry Special Revenue Fund shall consist of those special revenues as specified in § 19-6-301(33) and (34) which are not required for support of the Arkansas Livestock and Poultry Commission Poultry and Egg Grading Program, there to be used for those purposes as set out by law. The Executive Director of the Arkansas Livestock and Poultry Commission, with the approval of the Chief Fiscal Officer of the State, shall have the authority to transfer funds

from the Livestock and Poultry Special Revenue Fund to the Livestock and Poultry Fund Account.

History. Acts 1995, No. 236, § 24; 1997, No. 298, § 9.

19-6-481. [Repealed.]

Publisher's Notes. This section, concerning the Public School Support Fund, was repealed by Acts 1997, No. 1173, § 3. The section was derived from Acts 1995, No. 916, §§ 1, 3, 4; 1997, No. 298, § 10; 1997, No. 1040, § 4.

Pursuant to § 1-2-207, the amendments to this section by Acts 1997, Nos. 298 and 1040 are superseded by its repeal by Acts 1997, No. 1173.

Cross References. Public School Fund, § 19-5-305.

19-6-482. Telecommunications Equipment Fund.

The Telecommunications Equipment Fund shall consist of those special revenues as specified in § 19-6-301(129). The fund shall be used exclusively by the Arkansas Rehabilitation Services to fund an equipment distribution program for persons certified as deaf, hard of hearing, deaf and blind, or speech-impaired as provided otherwise in § 20-79-401 et seq.

History. Acts 1995, No. 501, § 4; 1997, No. 298, § 11; 2001, No. 530, § 1.

A.C.R.C. Notes. Acts 1997, No. 1080, § 14, provided, in part, that "to the extent

any provisions of this act conflict with any provisions of Act 501 of 1995 the provisions of Act 501 shall prevail."

19-6-483. [Repealed.]

Publisher's Notes. This section, concerning the Parks and Tourism — Retirement and Relocation Division Fund, was

repealed by Acts 2003, No. 28, § 22. The section was derived from Acts 1995, No. 1255, § 7.

19-6-484. Conservation Tax Fund. [Effective until July 1, 2017.]

The Conservation Tax Fund shall consist of those general revenues as specified in § 26-56-201(g)(1)(D) and those special revenues as specified in § 19-6-301(193), there to be distributed to the fund accounts as set out below, which are created by this section unless specifically created in other provisions of the Arkansas Code, and under the following procedures:

(1) The Revenue Division of the Department of Finance and Administration shall deposit the funds collected under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., for gross receipts taxes and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for compensating taxes into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund;

(2)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the estimated amount of gross receipts and compensating tax collections in the Revenue

Holding Fund Account that are a result of the changes by the passage of Arkansas Constitution, Amendment 75.

(B) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account of the State Apportionment Fund as part of the gross special revenues.

(C) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Conservation Tax Fund.

(D) The remaining gross receipts and compensating tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.; and

(3) The Treasurer of State shall then make the following transfers from the Conservation Tax Fund to the fund accounts set out below at the end of each month:

(A) Forty-five percent (45%) to the Game Protection Fund to be used exclusively by the Arkansas State Game and Fish Commission as appropriated by the General Assembly;

(B) Forty-five percent (45%) to the Parks and Tourism Fund Account to be used by the Department of Parks and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas Department of Heritage Fund Account to be used exclusively by the Department of Arkansas Heritage as appropriated by the General Assembly; and

(D)(i) One percent (1%) to the Keep Arkansas Beautiful Fund Account to be used exclusively by the Keep Arkansas Beautiful Commission as appropriated by the General Assembly.

(ii) The Keep Arkansas Beautiful Fund Account also shall consist of the special revenues as specified in § 19-6-301(203).

History. Acts 1997, No. 156, § 1; 2003, No. 28, § 20; 2013, No. 1393, § 4.

Publisher's Notes. For text of section effective July 1, 2017, see the following version.

Amendments. The 2013 amendment inserted "general revenues as specified in § 26-56-201(g)(1)(D) and those" in the in-

troductory language; in (1), inserted "the Arkansas Gross Receipts Act of 1941" and "the Arkansas Compensating Tax Act of 1949"; substituted "Treasurer of State" for "State Treasurer" in (2)(A), (2)(B), and (3); and, in (3)(D)(i), inserted "the" preceding "Keep Arkansas" and "Commission" following "Arkansas Beautiful".

19-6-484. Conservation Tax Fund. [Effective July 1, 2017.]

The Conservation Tax Fund shall consist of those special revenues as specified in § 19-6-301(193), there to be distributed to the fund accounts as set out below, which are created by this section unless specifically created in other provisions of the Arkansas Code, and under the following procedures:

(1) The Revenue Division of the Department of Finance and Administration shall deposit the funds collected under the Arkansas Gross

Receipts Act of 1941, § 26-52-101 et seq., for gross receipts taxes and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for compensating taxes into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund;

(2)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the estimated amount of gross receipts and compensating tax collections in the Revenue Holding Fund Account that are a result of the changes by the passage of Arkansas Constitution, Amendment 75.

(B) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account of the State Apportionment Fund as part of the gross special revenues.

(C) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Conservation Tax Fund.

(D) The remaining gross receipts and compensating tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.; and

(3) The Treasurer of State shall then make the following transfers from the Conservation Tax Fund to the fund accounts set out below at the end of each month:

(A) Forty-five percent (45%) to the Game Protection Fund to be used exclusively by the Arkansas State Game and Fish Commission as appropriated by the General Assembly;

(B) Forty-five percent (45%) to the Parks and Tourism Fund Account to be used by the Department of Parks and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas Department of Heritage Fund Account to be used exclusively by the Department of Arkansas Heritage as appropriated by the General Assembly; and

(D)(i) One percent (1%) to the Keep Arkansas Beautiful Fund Account to be used exclusively by the Keep Arkansas Beautiful Commission as appropriated by the General Assembly.

(ii) The Keep Arkansas Beautiful Fund Account also shall consist of the special revenues as specified in § 19-6-301(203).

History. Acts 1997, No. 156, § 1; 2003, No. 28, § 20; 2013, No. 1393, § 4; 2016 (3rd Ex. Sess.), No. 1, § 14.

A.C.R.C. Notes. Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

Publisher's Notes. For text of section effective until July 1, 2017, see the preceding version.

Amendments. The 2016 (3rd Ex. Sess.) amendment deleted "general revenues as specified in § 26-56-201(g)(1)(D) and those" preceding "special revenues" in the introductory language.

Effective Dates. Acts 2016 (3rd Ex. Sess.), No. 1, § 22: July 1, 2017.

19-6-485. Health Department Technology Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Health Department Technology Fund".

(b) The fund shall consist of:

(1) Three dollars (\$3.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(H)(i);

(2) Four dollars (\$4.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(I)(i);

(3) Two dollars (\$2.00) of the three-dollar fee levied by § 20-7-123(b)(1)(I)(ii); and

(4) Three dollars (\$3.00) of the eight-dollar fee levied by § 20-7-123(b)(1)(J)(i).

(c) The fund shall be used exclusively by the Department of Health for the purchase of computer hardware and software, the conversion cost of scanning data into its computer system, and related activities.

(d) After June 30, 2003:

(1) The fee levied by § 20-7-123(b)(1)(H)(i) shall revert to five dollars (\$5.00);

(2) The fee levied by § 20-7-123(b)(1)(H)(ii) shall cease to be collected;

(3) The fee levied by § 20-7-123(b)(1)(I)(i) shall revert to four dollars (\$4.00);

(4) The fee levied by § 20-7-123(b)(1)(I)(ii) shall revert to one dollar (\$1.00); and

(5) The fee levied by § 20-7-123(b)(1)(J)(i) shall revert to five dollars (\$5.00).

History. Acts 2001, No. 957, § 5; 2003, scribed in the Vital Statistics Act, § 20-7-123, No. 1723, § 13.

Cross References. Allowable fees pre-

19-6-486. Long Term Reserve Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Long Term Reserve Fund".

(b) The Long Term Reserve Fund shall consist of such funds as may be provided by the General Assembly.

(c) The Long Term Reserve Fund shall be used to distribute moneys to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq.

(d)(1) After determining the estimated amount of general revenue that will be available for allocation to the state agencies under the Revenue Stabilization Law, § 19-5-101 et seq., and after making the determination required by § 19-5-1227(c) and prior to making any transfers deemed necessary by the Chief Fiscal Officer of the State in § 19-5-1227(d), the Chief Fiscal Officer of the State may transfer funds

from the Long Term Reserve Fund in the event a “revenue shortfall” exists to meet the state’s financial obligation to provide an adequate educational system for the state and to provide for the effective operation of state government. In the event the Chief Fiscal Officer of the State determines that a “revenue shortfall” exists as defined as a circumstance when the official forecast of gross general revenue certified by the Chief Fiscal Officer of the State is projected to increase less than three percent (3%) over and above the gross general revenue collections of the previous fiscal year due to changes in economic conditions, he or she may then transfer funds from the Long Term Reserve Fund, as approved by the Legislative Council or Joint Budget Committee, to various funds and fund accounts, as deemed necessary, in the Revenue Stabilization Law, § 19-5-101 et seq., for the purpose of meeting unanticipated shortfalls in state general revenue.

(2) Or the Chief Fiscal Officer of the State may transfer funds from the Long Term Reserve Fund to the Economic Development Superprojects Project Fund for projects authorized under Arkansas Constitution, Amendment 82, as approved by the Governor and the Legislative Council or Joint Budget Committee.

(e)(1) Upon recommendation by the Chief Fiscal Officer of the State, the Governor may determine that circumstances exist that meet the requirements for the utilization of the Long Term Reserve Fund as set out in this section, and the procedures set out herein shall apply.

(2) When the Governor determines there is a need requiring transfer from the Long Term Reserve Fund, he or she shall instruct the Chief Fiscal Officer of the State to prepare and submit written documentation to the Legislative Council or the Joint Budget Committee. Such documentation shall include:

(A) Sufficient financial data that will enable the verification of the existence of an emergency and the amount necessary to address the need for long term reserve funds;

(B) A proposed distribution of moneys from the Long Term Reserve Fund to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both; and

(C) A statement certifying that no other funds are available that could be transferred in lieu of the funds in the Long Term Reserve Fund.

(3) Such documentation shall be submitted to the Legislative Council or Joint Budget Committee for approval prior to the implementation of the proposed distribution. The Chief Fiscal Officer of the State, after having sought and received prior approval of the Legislative Council or Joint Budget Committee, shall cause the required transfers to be made on his or her books and on the books of the Treasurer of State and the Auditor of State from the Long Term Reserve Fund to the appropriate funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both. In no event shall the amounts transferred in any fiscal year to the

funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., by this section cause the general revenues to exceed the maximum allocations authorized in the Revenue Stabilization Law, § 19-5-101 et seq.

(f) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq. Further, the General Assembly has determined that creating the Long Term Reserve Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(g) During each fiscal year, after the provisions of § 19-5-1004(b)(2) are complied with, the Chief Fiscal Officer of the State may replenish the Long Term Reserve Fund by transferring no more than fifty percent (50%) of the balance in the General Revenue Allotment Reserve Fund or an amount equal to all transfers made under this section during the fiscal year immediately preceding the fiscal year in which such replenishment is made under this section, whichever is less, to the Long Term Reserve Fund. In no event shall the balance of the Long Term Reserve Fund exceed one hundred twenty-five million dollars (\$125,000,000) at any time.

History. Acts 2002 (1st Ex. Sess.), No. 2, § 1; 2007, No. 1055, §§ 1-4; 2016 (3rd Ex. Sess.), No. 1, § 15.

A.C.R.C. Notes. Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

Former (d)(3), as enacted by Acts 2007, No. 1055, § 2, was deleted as it was identical to (e)(4) [now (f)] as enacted by Acts 2007, No. 1055, § 3. Subdivision (d)(3) read: "(3) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by

delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq. Further, the General Assembly has determined that creating the Long Term Reserve Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore,

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19-6-489. Specialty Court Program Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Specialty Court Program Fund”.

(b) The fund shall consist of the specialty court program user fees under § 16-10-701 and any other moneys provided by law.

(c) The fund shall be used exclusively for:

(1) Treatment services provided by the Department of Community Correction as defined by and distributed under § 16-98-305(1)(E);

(2) Treatment services provided by the Department of Human Services as defined by and distributed under § 16-98-305(2)(C);

(3) The cost of the evaluation of specialty court programs by the Specialty Court Program Advisory Committee as required under § 16-10-139; and

(4) Drug and mental health crisis intervention centers.

History. Acts 2003, No. 1266, § 4; 2015, No. 895, § 45.

A.C.R.C. Notes. Acts 2005, No. 2115, § 29, provided: “DRUG COURT RULES AND REGULATIONS. The Department of Human Services — Division of Behavioral Health Services shall develop administrative rules and regulations regarding the distribution of monies from the MAGNUM Drug Court Fund and shall submit such rules and regulations to the Arkansas Legislative Council or Joint Budget Committee for review.”

Acts 2015, No. 895, § 1, provided: “Legislative intent.

“It is the intent of the General Assembly

to implement wide-ranging reforms to the criminal justice system in order to address prison overcrowding, promote seamless reentry into society, reduce medical costs incurred by the state and local governments, aid law enforcement agencies in fighting crime and keeping the peace, and to enhance public safety.”

Prior to the 2015 amendment, this section constituted the MAGNUM Drug Court Fund.

Amendments. The 2015 amendment rewrote the section heading and the section.

Cross References. Court order for costs and fees, § 16-98-304.

19-6-490. Marine Sanitation Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Marine Sanitation Fund”.

(b)(1) The Marine Sanitation Fund shall consist of those special revenues as specified in § 19-6-301(178) and twenty-four percent (24%) of those special revenues as specified in § 19-6-301(20).

(2) The Marine Sanitation Fund also shall consist of any unexpended balances of fees and fines for the use of the Marine Sanitation Program remaining in the Public Health Fund on June 30, 2003.

(3) The Marine Sanitation Fund also shall consist of any other revenues as may be authorized by law.

(c) The Marine Sanitation Fund shall be used by the Department of Health for the purposes set out in § 27-101-401 et seq.

History. Acts 2003, No. 1774, § 16; 2005, No. 20, § 15.

Cross References. Deposit of funds in State Treasury, § 27-101-110.

19-6-491. Domestic Peace Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Domestic Peace Fund”.

(b)(1) The moneys collected under § 16-20-407, as designated under § 16-20-407(b)(2), and § 16-10-305(g) shall be deposited into the State Treasury to the credit of the fund as special revenue.

(2) The fund also shall consist of:

(A) That portion of special revenues specified in § 19-6-301(172)(B);

(B) Moneys obtained from private grants or other sources that are designated to be credited to the fund;

(C) Moneys collected under § 17-19-301(d)(1)(F)(ii); and

(D) Other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Child Abuse/Rape/Domestic Violence Commission as provided under the Arkansas Domestic Peace Act, § 9-4-101 et seq.

History. Acts 2003, No. 1029, § 2; 2005, No. 20, § 16; 2005, No. 1962, § 86; 2009, No. 1464, § 8; 2013, No. 1357, § 2; 2015, No. 1207, § 4.

Amendments. The 2013 amendment inserted “and § 16-10-305(g)” in (b)(1).

The 2015 amendment inserted present (b)(2)(C) and redesignated former (b)(2)(C) as (b)(2)(D).

Cross References. Additional marriage license fees for the Domestic Peace Fund, § 16-20-407.

19-6-492. [Repealed.]

Publisher’s Notes. This section, concerning the Domestic Peace Fund and moneys collected for additional marriage

license fees, was repealed by Acts 2005, No. 1962, § 87. The section was derived from Acts 2003, No. 1276, § 2.

19-6-493. Public School Facilities Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Public School Facilities Fund”.

(b)(1) All moneys collected under Acts 2003 (2nd Ex. Sess.), No. 70, shall be deposited as follows:

(A) If designated in § 19-6-201 as general revenues, the moneys shall be deposited into the State Treasury to the credit of the fund as special revenues; and

(B) If designated in § 19-6-301 as special revenues, the moneys shall be deposited into the State Treasury as special revenues to be distributed as provided by law.

(2) The distribution of municipal and county taxes collected under the tax amnesty program created by Acts 2003 (2nd Ex. Sess.), No. 70, is not affected by this section.

(3) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used for improvements, construction, or repair of public school facilities.

History. Acts 2003 (2nd Ex. Sess.), No. 70, § 6.

A.C.R.C. Notes. Acts 2003 (2nd Ex.

Sess.), No. 70, §§ 1-5 created a temporary state tax penalty and interest amnesty program.

19-6-494 — 19-6-496. [Repealed.]

Publisher's Notes. These sections, concerning the Alternative Fuels Fund, the Arkansas Weatherization Assistance Fund, and the Choose Life Adoption Assistance Program Fund, were repealed by Acts 2007, No. 407, §§ 13-15 and Acts

2007, No. 873, § 7. The sections were derived from the following sources:

19-6-494. Acts 2005, No. 20, § 17.

19-6-495. Acts 2005, No. 20, § 17.

19-6-496. Acts 2005, No. 20, § 17.

19-6-497. Shared Benefit Payment Fund.

The Shared Benefit Payment Fund shall consist of those special revenues as specified in § 19-6-301(212) and any other revenues authorized by law, there to be used by the state agencies to pay vendors for contracts entered into, as set out in § 19-11-1101.

History. Acts 2005, No. 20, § 17.

19-6-498. Investor Education Fund.

The Investor Education Fund shall consist of those special revenues as specified in § 19-6-301(213) and an initial transfer of one hundred thousand dollars (\$100,000) from the Securities Department Fund, there to be used to inform and educate the public regarding investments in securities and to pay for costs and expenses associated with conducting a stock market game for educational purposes in the state's public school system, as set out in § 23-42-213.

History. Acts 2005, No. 20, § 17.

19-6-499. Fallen Firefighters' Memorial Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Fallen Firefighters' Memorial Fund".

(b)(1) All moneys collected under § 27-24-1303(c)(2)(C) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c)(1) The moneys deposited into the fund shall be used by the Secretary of State to satisfy the fee requirements for placement,

improvements to, or replacement of the monument or memorial area under § 19-5-1125(c).

(2) All maintenance and costs shall be approved by the Arkansas Fallen Firefighters' Memorial Board and the Capitol Arts and Grounds Commission.

History. Acts 2005, No. 28, § 4; 2009, No. 251, § 25; 2011, No. 860, § 2.

Amendments. The 2011 amendment rewrote (c)(1).

SUBCHAPTER 5 — TRUST FUND INCOME

SECTION.

19-6-501. Trust fund income.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is nec-

essary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

19-6-501. Trust fund income.

Trust fund income shall consist of any amounts deposited into the State Treasury, with the exception of the proceeds of the sale or redemption of securities. The amounts shall be deposited to the credit of any of the trust funds which are dedicated by law for specific purposes, the sources of which are not derived from general or special revenues. Trust fund income shall include ad valorem taxes collected by the state for the sole benefit of local governmental units.

History. Acts 1973, No. 808, § 9; A.S.A. 1947, § 13-503.8.

SUBCHAPTER 6 — FEDERAL GRANTS, AIDS, AND REIMBURSEMENTS

SECTION.

19-6-601. Federal grants, aids, and reimbursements.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues

and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preserva-

tion of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a

more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

19-6-601. Federal grants, aids, and reimbursements.

Federal grants, aids, and reimbursements shall consist of all funds granted to this state or any of its agencies under acts of the United States Congress or by any agency of the federal government. Such funds so received shall be considered as revenue of the fiscal year in which they are received. However, those moneys received during the month of July may be classified as revenues of the preceding fiscal year on the books of the Chief Fiscal Officer of the State upon investigation and subsequent determination by the Chief Fiscal Officer of the State that failure to do such would cause undue harm to the state or any of its agencies.

History. Acts 1973, No. 808, § 10; 1979, No. 1027, § 3; A.S.A. 1947, § 13-503.9.

SUBCHAPTER 7 — NONREVENUE RECEIPTS

SECTION.

19-6-701. Nonrevenue receipts.

Effective Dates. Acts 1973, No. 808, § 17: Apr. 16, 1973. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that in order to properly define, describe and classify all revenues and other income which are required to be deposited in the State Treasury, it is necessary that the provisions of this Act become effective immediately. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after its passage and approval."

Acts 1975, No. 230, § 6: Feb. 10, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that due to inflationary pressures in the economy, participation by the various state agencies in the Market-

ing and Redistribution Program has been minimal, causing income to be below a level that would sustain operation; and in order for the Marketing and Redistribution Section to operate at a level of maximum efficiency, additional funding is necessary to continue this program and in order to improve the marketing and redistribution of certain inventories classified as miscellaneous or junk, proper accounting and administrative controls must be maintained to insure maximum utilization of the State's assets, then the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after February 10, 1975."

Acts 1975, No. 868, § 17: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State Government. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1977, No. 437, § 4: July 1, 1977. Emergency clause provided: "It being determined by the General Assembly that the proper and effective management of state finances requires that the provisions of this Act be implemented at the commencement of the next biennium and this Act is necessary for the proper management of the financial affairs of the State, therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 1027, § 11: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary that the aforementioned amendments will provide for a more efficient administration of state revenue. Therefore, an emergency is hereby declared to exist, and this Act being nec-

essary for the preservation of the public peace, health and safety shall take effect and be in full force from and after July 1, 1979."

Acts 1991, No. 1023, § 9: Apr. 8, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that this act establishes the Arkansas Medicaid Rebate Trust Fund; that this fund is to consist of monies received by the Department of Human Services in the form of rebates from drug manufacturers; that establishing this rebate program immediately is in the best interests of this state; and that this act should be effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 795, § 6: July 1, 1997. Emergency clause provided: "It is found and determined by the Eighty-First General Assembly that the appropriate reimbursement of travel expenses borne by employees of the State of Arkansas should be provided for and that the provisions of this Act are necessary for proper fiscal administration. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

19-6-701. Nonrevenue receipts.

- (a) Nonrevenue receipts shall consist of:
 - (1) The repayment of the principal amount of loans;
 - (2) The proceeds of the sale and redemption of securities, including premiums received thereon;
 - (3) The transfer of funds, by warrants, between funds or fund accounts on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State;
 - (4) Federal reimbursement received by state agencies on account of eligible expenditures for specific programs and deposited into funds or fund accounts in the State Treasury classified other than federal;
 - (5) Refunds to the state or state agencies, departments, or institutions; and
 - (6) Funds collected from drug manufacturers as rebates according to promulgated regulations of Title XIX of the Social Security Act, as amended, and deposited into the Arkansas Medicaid Rebate Program

Revolving Fund. These funds shall be transferrable to the Department of Human Services Medicaid Paying Accounts Account for disbursement in the Arkansas Medicaid Program.

(b) Refunds to expenditures shall consist of:

(1) Proceeds received from insurance policies for casualty losses by state agencies, departments, or institutions;

(2) Proceeds received from vendors on account of overpayment of obligations remitted by state agencies, departments, or institutions;

(3) Refunds to state agencies for cash advances or over allocations made to other state and local agencies for subgrants;

(4) Refunds to state agencies for the erroneous payment or overpayment of salaries to state employees;

(5) Proceeds derived from the maturity or redemption of investments;

(6) Reimbursements to institutions of higher education for cash fund expenditures for salaries that are properly chargeable to funds in the State Treasury;

(7) Deposits by the counties in the State Aid Road Fund and in the County Supplement Fund Account in the State Treasury for matching funds available in the state aid road construction program;

(8) Reimbursements to state agencies for cost-sharing purposes;

(9) Federal reimbursements of expenses paid in advance by the state on behalf of the federal government; and

(10) Reimbursements by vendors or their agents for warranties, product rebates, and service adjustments.

(c) The first eighteen million dollars (\$18,000,000) received each fiscal year by the State of Arkansas under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. § 6701, commonly referred to as the "Revenue Sharing Act", shall be transferred by the Treasurer of State to the Federal Revenue Sharing State Highway Trust Fund Account in the State Highway and Transportation Department Fund.

(d) Income derived from the sale of miscellaneous and junk inventories whose ownership is questionable or where excessive administrative accounting is required shall be deposited into the State Treasury as a nonrevenue receipt, there to be credited to the Miscellaneous Agencies Fund Account.

History. Acts 1973, No. 808, § 11; 1975, No. 230, § 4; 1975, No. 868, § 13; 1977, No. 437, § 1; 1979, No. 1027, §§ 4, 5; A.S.A. 1947, §§ 13-503.10, 13-503.10a; Acts 1991, No. 1023, § 5; 1997, No. 795, § 2; 2007, No. 716, § 1.

U.S. Code. Title XIX of the Social Security Act, referred to in this section, is codified as 42 U.S.C. § 1396 et seq.

SUBCHAPTER 8 — SPECIAL REVENUE FUNDS CONTINUED

SECTION.

19-6-801. Commercial Bait and Ornamental Fish Fund.

19-6-802. Arkansas Citizens First Re-

SECTION.

sponder Safety Enhancement Fund.

19-6-803. Public Legal Aid Fund.

SECTION.

- 19-6-804. Spyware Monitoring Fund.
- 19-6-805. [Repealed.]
- 19-6-806. Abandoned and Orphan Well Plugging Fund.
- 19-6-807. In God We Trust License Plate Fund.
- 19-6-808. Arkansas Research Infrastructure Fund.
- 19-6-809. Arkansas Alternative Fuels Development Fund.
- 19-6-810. [Repealed.]
- 19-6-811. Wildlife Recreation Facilities Fund.
- 19-6-812. Cigarette Fire Safety Standard Fund.
- 19-6-813. Military Funeral Honors Fund.
- 19-6-814. Digital Product and Motion Picture Office Fund.
- 19-6-815. School-Age Children Eye and Vision Care Fund.
- 19-6-816. Arkansas Retirement Community Program Fund Account.
- 19-6-817. State Drug Crime Enforcement and Prosecution Grant Fund.
- 19-6-818. Wildlife Observation Trail Fund.

SECTION.

- 19-6-819. Arkansas Video Service Fund.
- 19-6-820. Arkansas Court Appointed Special Advocates Program Fund.
- 19-6-821. County Coroners Continuing Education Fund.
- 19-6-822. Fallen Law Enforcement Officers' Beneficiary Fund.
- 19-6-823. Alcoholic Beverage Control Fund.
- 19-6-824. Commercial Truck Safety and Education Fund.
- 19-6-825. Arkansas Sheriffs' Association Education Fund.
- 19-6-826. Bail Bond Recovery Fund.
- 19-6-827. Interpreters between Hearing Individuals and Individuals who are Deaf, Deaf-blind, Hard of Hearing, or Oral Deaf Fund.
- 19-6-828. State Aid Street Fund.
- 19-6-829. Road and Bridge Repair, Maintenance, and Grants Fund.
- 19-6-830. Skills Development Fund.
- 19-6-831. Arkansas Tobacco Control Revenue Fund.
- 19-6-832. Arkansas Highway Transfer Fund.

Effective Dates. Acts 2007, No. 407, § 18: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2007 have been made by the Eighty-Sixth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 697, § 3: Jan. 1, 2010.

Acts 2009, No. 816, § 4: Apr. 3, 2009. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas the incentives afforded by this Act to the digital content industry can serve to stimulate the economy of the area in which production and postproduction is performed; and that the incentives have a multiplier effect, in terms of economic development, in the locality of the production and statewide; and that tax revenues generated by the activities of digital content production and postproduction more than offset the revenue lost through the incentives provided by this act. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 276, § 3: Mar. 6, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that perhaps the lack of uniformity in the laws governing video service providers is inequitable to certain citizens and government entities; that this act establishes uniform regulation of video service providers and a simplified process for the issuance of a state franchise that will encourage entry of new video service providers to the state marketplace; and that this act is immediately necessary because it ensures uniform regulation of video service providers, assures equality of treatment of video ser-

vice providers, and encourages new video service providers to enter the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 545, § 3: Jan. 1, 2014.

Acts 2013, No. 586, § 5: Jan. 1, 2014.

Acts 2013, No. 1105, § 4: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a supplier of an alcoholic beverage is not required to file an application with the Alcoholic Beverage Control Division each calendar year; that suppliers should be required to register with the division each calendar year; and that the division's yearly registration period begins on April 1. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1176, § 5: Oct. 1, 2013.

Acts 2013, No. 1283, § 6: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that collection of fees for bail bonds fund various necessary programs in our state; that the law is currently unclear on the collection of these fees; and that this act is necessary because the law needs to be clear on the collection of these fees so that the programs are funded properly in a timely manner. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

Acts 2015, No. 536, § 5: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; and that this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015."

Acts 2015, No. 892, § 8: Apr. 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas workforce education operates within a variety of agencies without coordination, often with significant inefficiencies arising from overlapping and repeated programming; that this act will bring workforce education programs together under a single umbrella agency; and that this act is immediately necessary because the effectiveness of this act is essential to the operation of the programs for which appropriations will be provided, and that in the event of an extension of the legislative session, the delay in the effective date of this act could work irreparable harm upon

the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 1235, § 34: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state must be able to plan and give effective notice for the new comprehensive permits created by this act; that it is essential to the operation of Arkansas Tobacco Control and the tobacco, vapor product, and alternative nicotine product industry that this act be effective on the renewal date for permits issued by Arkansas Tobacco Control to ensure proper funding for the enforcement of the new regulations and requirements of this act; that a delay in the effectiveness of this act after the renewal date of permits and regulations issued by Arkansas Tobacco Control may cause irreparable harm upon the proper administration and provision of essential governmental programs; and that this act is necessary to ensure that the industry and the citizens of Arkansas are provided guidance regarding permits for vapor products and alternative nicotine products. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2015."

Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 153: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Building Authority, the Arkansas Science and Technology Authority, the Department of Rural Services, and the Division of Land Surveys of the Arkansas Agriculture Department are inefficiently structured; that this inefficient structuring causes an excessive and unnecessary cost to the taxpayers of the this state; and that this act is essen-

tial to alleviating that financial burden. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 23: July 1, 2016, §§ 1-8, 13, 15, and 18-21. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health,

and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016.”

19-6-801. Commercial Bait and Ornamental Fish Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Commercial Bait and Ornamental Fish Fund”.

(b) The fund is to be used by the State Plant Board to administer the Commercial Bait and Ornamental Fish Act, § 2-5-201 et seq.

History. Acts 2005, No. 1449, § 2.

19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Arkansas Citizens First Responder Safety Enhancement Fund”.

(b) The fund shall consist of eighty percent (80%) of the fines collected under § 27-22-111(a).

(c) The fund is to be used as appropriated by the General Assembly as follows:

(1) Fifty percent (50%) of the fund shall be used for emergency medical services; and

(2) Fifty percent (50%) of the fund shall be used for local law enforcement.

History. Acts 2005, No. 2246, § 2; 2013, No. 1393, § 5. inserted (b) and redesignated former (b) as present (c).

Amendments. The 2013 amendment

19-6-803. Public Legal Aid Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Public Legal Aid Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used for providing financial support for public legal aid organizations and distributed as follows:

(1) Forty-five percent (45%) of the fund shall be paid to Legal Aid of Arkansas; and

(2) Fifty-five percent (55%) of the fund shall be paid to the Center for Arkansas Legal Services.

History. Acts 2005, No. 1893, § 2.

19-6-804. Spyware Monitoring Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Spyware Monitoring Fund”.

(b) The fund shall consist of those special revenues as specified in § 19-6-301(228) and any other revenues as may be authorized by law;

(c) The fund is to be used by the Attorney General to offset his or her salary and administrative expenses directly related to the enforcement of the Consumer Protection Against Computer Spyware Act, § 4-111-101 et seq., and administration of the website required by the Consumer Protection Against Computer Spyware Act, § 4-111-101 et seq.

History. Acts 2005, No. 2255, § 2; 2007, No. 407, § 16.

Cross References. Use of Spyware Monitoring Fund, § 4-111-105.

19-6-805. [Repealed.]

Publisher’s Notes. This section, concerning the Arkansas Rx Program Fund was repealed by Acts 2013, No. 1145, § 1.

The section was derived from Acts 2007, No. 407, § 17; 2009, No. 1464, § 9.

19-6-806. Abandoned and Orphan Well Plugging Fund.

The Abandoned and Orphan Well Plugging Fund shall consist of those special revenues as specified in § 19-6-301(230), proceeds from the transfer of a well, well-site equipment, or hydrocarbons from the well as established by § 15-72-217(b)(2), grants, gifts, and any other revenues as may be authorized by law, there to be used by the Oil and Gas Commission to provide security in the event an oil and/or gas well operator fails to perform plugging responsibilities under § 15-72-217 or fails to correct well conditions that create an imminent danger to the health or safety of the public, or threaten significant environmental harm or damage to property.

History. Acts 2007, No. 407, § 17; 2011, No. 1008, § 9.

Amendments. The 2011 amendment inserted “proceeds from the transfer of a

well, well-site equipment, or hydrocarbons from the well as established by § 15-72-217(b)(2)”.

19-6-807. In God We Trust License Plate Fund.

The In God We Trust License Plate Fund shall consist of those special revenues as specified in § 19-6-301(223) and any other revenues as may be authorized by law, there to be used by the Division of Aging and Adult Services of the Department of Human Services to provide quarterly cash grants to each senior citizen center in a similar method as is used in the state's current system for distributing United States Department of Agriculture money to the senior citizen centers to purchase raw food, and for purchasing food for use in a home-delivered meal program, as set out in § 27-15-4904.

History. Acts 2007, No. 407, § 17.

19-6-808. Arkansas Research Infrastructure Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Research Infrastructure Fund".

(b) The fund shall consist of:

(1) All moneys appropriated to the fund by the General Assembly; and

(2) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the Division of Science and Technology of the Arkansas Economic Development Commission for the purposes delineated under the Arkansas Research Alliance Act, § 15-3-301 et seq.

History. Acts 2007, No. 563, § 2; 2015 (1st Ex. Sess.), No. 7, § 111; 2015 (1st Ex. Sess.), No. 8, § 111.

A.C.R.C. Notes. Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 62, provided: "Transfer of the Arkansas Science and Technology Authority.

"(a)(1) The Arkansas Science and Technology Authority is transferred to the Arkansas Economic Development Commission by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the commission is the principal department under Acts 1971, No. 38.

"(b) The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing, of the authority are transferred to the commission, except as speci-

fied in this act.

"(c) The prescribed powers, duties, and functions, including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudication of the authority are transferred to the executive director of the commission, except as specified in this act.

"(d) The members of the Board of Directors of the Arkansas Science and Technology Authority, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board except as specified in this act."

Amendments. The 2015 amendment by Acts 2015 (1st Ex. Sess.), Nos. 7 and 8 substituted "Division of Science and Technology of the Arkansas Economic Development Commission" for "Arkansas Science and Technology Authority" in (c).

19-6-809. Arkansas Alternative Fuels Development Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Alternative Fuels Development Fund”.

(b)(1) All moneys appropriated for the fund shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Agriculture Department to provide grants to support alternative fuels producers, feedstock processors, and alternative fuels distributors in Arkansas as provided under the Arkansas Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise provided by law.

History. Acts 2007, No. 873, § 2.

19-6-810. [Repealed.]

Publisher’s Notes. This section, concerning the Choose Life Adoption Assistance Program Fund was repealed by Acts 2013, No. 1146, § 5. The section was derived from Acts 2007, No. 1032, § 33; 2007, No. 1201, § 33.

19-6-811. Wildlife Recreation Facilities Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Wildlife Recreation Facilities Fund” administered by the Rural Services Division of the Arkansas Economic Development Commission.

(b) The fund shall consist of:

(1) Those special revenues and any other revenues authorized by law;

(2) Any moneys appropriated to it by the General Assembly; and

(3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the division to develop criteria to establish and fund the development and maintenance of wildlife recreation facilities.

History. Acts 2009, No. 687, § 2; 2015 (1st Ex. Sess.), No. 7, § 135; 2015 (1st Ex. Sess.), No. 8, § 135.

A.C.R.C. Notes. Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 122, provided: “Transfer of the Department of Rural Services to the Arkansas Economic Development Commission.

“(a)(1) The Department of Rural Services is transferred to the Arkansas Economic Development Commission by a type

2 transfer under § 25-2-105.

“(2) As used in this act, the Arkansas Economic Development Commission is the principal department.

“(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing, are transferred to the Arkansas Economic Development Commission, except as speci-

fied by this act.

“(c) All powers, duties, and functions, including rulemaking, regulation, and licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the Executive Director of the Arkansas Economic Development Commission.

“(d) The members of the Board of Directors of the Arkansas Rural Development Commission, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the commission except

as specified in this act.

“(e) Except as specified in this act, the Arkansas Code Revision Commission shall replace ‘Department of Rural Services’ with ‘Rural Services Division of the Arkansas Economic Development Commission.’”

Amendments. The 2015 amendment by Acts 2015 (1st Ex. Sess.), Nos. 7 and 8 substituted “Rural Services Division of the Arkansas Economic Development Commission” for “Department of Rural Services” in (a); and substituted “division” for “department” in (c).

19-6-812. Cigarette Fire Safety Standard Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Cigarette Fire Safety Standard Fund”.

(b) The fund shall consist of:

- (1) All certification fees paid under § 20-27-2105;
- (2) All moneys recovered as civil penalties under § 20-27-2107; and
- (3) Any other revenues as may be authorized by law.

(c) The fund shall be used by the Director of Arkansas Tobacco Control to support fire safety and prevention programs.

History. Acts 2009, No. 697, § 1.

19-6-813. Military Funeral Honors Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Military Funeral Honors Fund”.

(b)(1) All moneys collected under § 27-24-209(d)(7) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues authorized by law.

(c) The fund shall be used by the Department of Veterans Affairs to assist with the cost of providing military funeral honors at veterans’ funerals.

History. Acts 2009, No. 784, § 2.

19-6-814. Digital Product and Motion Picture Office Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Digital Product and Motion Picture Office Fund”.

(b) The fund shall consist of revenues as authorized by law.

(c) The fund shall be used for providing additional funds for duties and functions of the Motion Picture Office [abolished] of the Arkansas Economic Development Commission.

(d)(1) The fund shall be administered in accordance with rules promulgated by the Department of Finance and Administration.

(2) The department shall consult with the Motion Picture Office [abolished] of the Arkansas Economic Development Commission.

History. Acts 2009, No. 816, § 2.

19-6-815. School-Age Children Eye and Vision Care Fund.

The School-Age Children Eye and Vision Care Fund shall consist of those special revenues as specified in § 19-6-301(242), and any other revenues as may be authorized by law, there to be used by the Arkansas Commission on Eye and Vision Care of School Age Children for the purpose of carrying out its responsibilities as stated in uncodified Section 1 of Acts 2007, No. 138.

History. Acts 2009, No. 1464, § 10.

19-6-816. Arkansas Retirement Community Program Fund Account.

The Arkansas Retirement Community Program Fund Account shall consist of those special revenues as specified in § 19-6-301(243), and any other revenues as may be authorized by law, there to be used by the Arkansas Institute for Economic Advancement of the University of Arkansas at Little Rock for payment of administrative and personnel costs and other costs of the Arkansas Association of Development Organizations associated with administering the Arkansas Retirement Community Program, as set out in the Arkansas Retirement Community Program Act, § 15-14-101 et seq.

History. Acts 2009, No. 1464, § 10; 2013, No. 1393, § 6.

Amendments. The 2013 amendment substituted “Arkansas Institute for Economic Advancement of the University of

Arkansas at Little Rock” for “Arkansas Economic Development Commission” and “Arkansas Association of Development Organizations associated” for “department associated”.

19-6-817. State Drug Crime Enforcement and Prosecution Grant Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “State Drug Crime Enforcement and Prosecution Grant Fund”.

(b) The fund shall consist of:

(1) Revenues generated under § 12-17-106; and

(2) Any moneys authorized by the General Assembly.

(c) The fund shall be used by the Department of Finance and Administration for the purpose of funding state grant awards for multi-jurisdictional drug crime task forces to investigate and prosecute drug crimes within the State of Arkansas, as set out in § 12-17-101 et seq.

History. Acts 2009, No. 1464, § 10. Enforcement and Prosecution Grant
Cross References. State Drug Crime Fund, § 12-17-102.

19-6-818. Wildlife Observation Trail Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Wildlife Observation Trail Fund” administered by the Department of Parks and Tourism.

(b) The fund shall consist of:

(1) Those special revenues and any other revenues as may be authorized by law;

(2) Any moneys appropriated to the fund by the General Assembly; and

(3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the department to develop criteria to establish and fund the development and maintenance of wildlife observation trails.

History. Acts 2009, No. 686, § 2.

19-6-819. Arkansas Video Service Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Video Service Fund”.

(b)(1) All moneys collected under § 23-19-204 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Secretary of State to review and issue certificates of franchise authority.

(d) The fund may be used by the Secretary of State to issue refunds and reimbursements of fees collected in regard to the purpose of the fund.

History. Acts 2013, No. 276, § 1; 2015, No. 1028, § 3. **Amendments.** The 2015 amendment added (d).

19-6-820. Arkansas Court Appointed Special Advocates Program Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special

revenue fund to be known as the “Arkansas Court Appointed Special Advocates Program Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used for providing program support for local offices of the Arkansas Court Appointed Special Advocates program.

History. Acts 2013, No. 545, § 2.

19-6-821. County Coroners Continuing Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “County Coroners Continuing Education Fund”.

(b)(1) The fund shall consist of those special revenues as specified in § 19-6-301(246).

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used for defraying the expenses of training seminars and other educational projects benefiting county coroners in this state as set out in §§ 14-15-308, 16-20-105, 16-20-110, and § 26-60-101 et seq.

History. Acts 2013, No. 551, § 7.

19-6-822. Fallen Law Enforcement Officers’ Beneficiary Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Fallen Law Enforcement Officers’ Beneficiary Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Commission on Law Enforcement Standards and Training to provide such support and assistance to beneficiaries of fallen law enforcement officers as determined to be appropriate by the commission.

History. Acts 2013, No. 586, § 1.

19-6-823. Alcoholic Beverage Control Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Alcoholic Beverage Control Fund”.

(b)(1) The registration fee of fifteen dollars (\$15.00) for each brand label and brand label size collected under § 3-2-403 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

- (c) The Alcoholic Beverage Control Division shall use the fund to:
- (1) Educate alcoholic beverage servers and law enforcement personnel regarding state law and the division's rules;
 - (2) Promote alcohol safety awareness; and
 - (3) Enforce state law and the division's rules regarding underage drinking.

History. Acts 2013, No. 1105, § 3.

19-6-824. Commercial Truck Safety and Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Commercial Truck Safety and Education Fund".

(b)(1) Beginning October 1, 2013, the first two million dollars (\$2,000,000) of the fee charged under § 27-14-601(a)(3)(G)(ii) for the fiscal year ending June 30, 2014, shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) Beginning July 1, 2014, the first two million dollars (\$2,000,000) per fiscal year of the fee charged under § 27-14-601(a)(3)(G)(ii) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(3) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas State Highway and Transportation Department to improve the safety of the commercial truck industry through cooperative public-private programs that focus on increased enforcement, regulatory compliance, industry training, and educational programs to ensure the safe movement of goods on state highways.

History. Acts 2013, No. 1176, § 2.

A.C.R.C. Notes. Acts 2013, No. 1176, § 1, provided: "Legislative findings and intent.

"The General Assembly finds that:

"(1) There are no programs jointly involving the trucking industry and the Arkansas State Highway and Transportation Department to ensure improved commercial truck safety on state highways. Furthermore, no studies exist on ways to improve the efficiencies of freight movement that could improve highway safety;

"(2) Dedicating funding for these purposes could enable the industry and state

government to create such programs. Additionally, the industry and the department could benefit from research specific to freight movement, regulatory compliance, education, and training; and

"(3) The purpose of this act is to advance state interests in roadway safety by proposing to improve the safety of the commercial truck industry through cooperative public private programs that focus on increased enforcement, regulatory compliance, industry training, and educational programs to ensure the safe movement of goods on Arkansas highways."

19-6-825. Arkansas Sheriffs' Association Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Sheriffs' Association Education Fund".

(b) The fund shall be used by the Arkansas Sheriffs' Association exclusively for the performance of its duties as the official agency of the sheriffs of this state, including without limitation:

(1) Receiving and using funds for a continuing study of ways to improve the administration of sheriffs' offices; and

(2) Developing and improving education programs designed for sheriffs' offices in Arkansas.

History. Acts 2013, No. 1283, § 5.

19-6-826. Bail Bond Recovery Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Bail Bond Recovery Fund".

(b)(1) All moneys collected under § 17-19-301(g) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues authorized by law.

(c) The fund shall be used exclusively for the recovery of forfeited professional bonds.

(d) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall promulgate rules concerning the disbursements of the fund.

(e)(1) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(2) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of and remittance of the delinquent fees and penalties owed under this section against any entity that has a duty to collect or remit these fees.

History. Acts 2013, No. 1283, § 5.

19-6-827. Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf Fund".

(b)(1) All moneys collected under § 20-14-801 et seq. shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues authorized by law.

(c) The fund shall be used by the Department of Health to pay costs related to the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf and the licensure of licensed qualified interpreters under § 20-14-801 et seq.

History. Acts 2013, No. 1314, § 1.

19-6-828. State Aid Street Fund.

The State Aid Street Fund shall consist of one cent (1¢) per gallon tax from revenue distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., from the proceeds derived from existing motor fuel taxes and distillate fuel taxes, there to be used for construction, reconstruction, and improvements of the state aid street system and apportioned to municipalities as prescribed in § 27-72-413.

History. Acts 2013, No. 1393, § 7.

19-6-829. Road and Bridge Repair, Maintenance, and Grants Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Road and Bridge Repair, Maintenance, and Grants Fund”.

(b) The fund shall consist of:

(1) Moneys collected under § 26-58-124, as designated under § 26-58-124(c)(1)(B); and

(2) Any other revenues authorized by law.

(c) The fund shall be used for the maintenance, operation, and improvement required by the Arkansas State Highway and Transportation Department in carrying out the functions, powers, and duties stated in Arkansas Constitution, Amendment 42, §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

History. Acts 2015, No. 536, § 3.

19-6-830. Skills Development Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Skills Development Fund”.

(b) The fund shall consist of:

(1) Moneys obtained from private grants or other sources that are designated to be credited to the fund; and

(2) Any other revenues as may be authorized by law.

(c) The fund shall be used by the Office of Skills Development as provided in § 25-30-109.

History. Acts 2015, No. 892, § 4.

A.C.R.C. Notes. Acts 2015, No. 892, § 1, provided: "Findings.

"(1) Occupational, technical, and industrial training provides unique opportunities to improve the lives of Arkansans while advancing the state's economic development;

"(2) Businesses seeking to begin operations in Arkansas look to the level of education and skills in the workforce as a key factor in making investment decisions;

"(3) Currently, Arkansas workforce education proceeds in a variety of agencies, without coordination, often with significant inefficiencies arising from overlapping and repeated programming and from important programs being over-

looked as presumably covered by another program; and

"(4) Bringing coordination of all state and federal career education and workforce development programs will:

"(A) Reduce duplication of programming;

"(B) Ensure that every Arkansan who seeks occupational, technical, and industrial training will find an appropriate education program in this state;

"(C) Bring consistency and efficiency to the state's career education and workforce development efforts; and

"(D) Alert industry to the commitment of the State of Arkansas to economic development through career education and workforce education."

19-6-831. Arkansas Tobacco Control Revenue Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of the State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Tobacco Control Revenue Fund".

(b)(1) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., shall be deposited into the State Treasury as special revenues to the credit of the fund.

(2) The fund also shall consist of any other revenues authorized by law.

(c)(1) The fund shall be used for expenses incurred by Arkansas Tobacco Control in the organization, maintenance, operation, and merchant education and training with regard to enforcement of § 5-27-227, the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., and the Unfair Cigarette Sales Act, § 4-75-701 et seq.

(2) Expenditures of moneys in the fund are subject to the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the Arkansas Procurement Law, § 19-11-201 et seq., and other applicable fiscal laws.

(3) The receipts and disbursements of Arkansas Tobacco Control shall be audited annually by Arkansas Legislative Audit.

History. Acts 2015, No. 1235, § 29.

19-6-832. Arkansas Highway Transfer Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Highway Transfer Fund”.

(b) The Arkansas Highway Transfer Fund shall be used to provide additional funding to the Arkansas State Highway and Transportation Department for use in constructing and maintaining the highways of this state.

(c) In the event revenues to the department are insufficient to fully address the highway construction and maintenance needs of the state, the department may provide a written document to the Governor outlining the reasons that additional funding is needed and requesting that the Governor provide a recommendation to the Legislative Council or the Joint Budget Committee for review and approval of the transfer of funds in the Arkansas Highway Transfer Fund to the State Highway and Transportation Department Fund.

(d) Upon review and approval of the Legislative Council or the Joint Budget Committee, the Chief Fiscal Officer of the State may transfer funds from the Arkansas Highway Transfer Fund to the State Highway and Transportation Department Fund as deemed necessary to provide additional funding to address the highway construction and maintenance needs of the state.

(e) The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

History. Acts 2016 (3rd Ex. Sess.), No. 1, § 13.

A.C.R.C. Notes. Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: “This act shall be known and may be cited as the ‘Arkansas Highway Improvement Plan of 2016’.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 21, provided:

“(a) The Chief Fiscal Officer of the State shall make a one-time transfer on his or her books and those of the Treasurer of State and the Auditor of State the sum of forty million dollars (\$40,000,000) from the funds available in the Rainy Day Set-Aside of the 90th Session Projects Account of the General Improvement Fund as authorized by Acts 2015, No. 1147, § 3(a)(11), to the Arkansas Highway Transfer Fund there to be used only for the purposes set forth in § 19-6-832.

“(b) Disbursement of funds authorized by this act shall be limited to the appropriation for the agency and funds made available by law for the support of the

appropriations. The restrictions of the Arkansas Procurement Law, § 19-11-201 et seq., the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the Revenue Stabilization Law, § 19-5-101 et seq., the Regular Salary Procedures and Restrictions Act, § 21-5-101 et seq., and other fiscal control laws of this state, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of the funds.

“(c) It is the intent of the General Assembly that any funds disbursed under the authority of this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations, and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes

of the Legislative Council or Joint Budget Committee which relate to its passage and adoption.”

CHAPTER 7
FEDERAL FUNDS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. OFFICE OF STATE-FEDERAL RELATIONS.
3. STATE ECONOMIC OPPORTUNITY OFFICE. [REPEALED.]
4. RECEIPT OF FEDERAL FUNDS GENERALLY.
5. MISCELLANEOUS FEDERAL GRANT ACT.
6. GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS.
7. TITLE XX SOCIAL SECURITY FUNDS.
8. SALE OR LEASE OF MINERALS, OIL, AND GAS.
9. RESETTLEMENT OR RURAL REHABILITATION PROJECTS.
10. EDUCATIONAL FUNDING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-7-101. Reports to Legislative Council.
19-7-102. Legislative review of federal programs.

SECTION.

- 19-7-103. Control of college study programs and basic educational grants.

Preambles. Acts 1971, No. 191 contained a preamble which read: “Whereas, it has been the practice of the various Governors of the State of Arkansas during the interim between legislative sessions to enter into agreements with the federal government to obtain for the people of Arkansas the benefits of various federal programs enacted or implemented in the interim between legislative sessions; and

“Whereas, many of these programs obligate the State of Arkansas for present or future financial commitments which have not been authorized by the General Assembly and the funding of which has not been specifically authorized by legislative appropriation, and often new departments, boards or commissions are established by administrative order of the Governor to administer such programs; and

“Whereas, the Sixty-Eighth General Assembly of the State of Arkansas passed Senate Bill 21 which would have required the Governor of the State to file copies of all contracts or agreements entered into with the federal government for participating in federally financed programs with each member of the General Assem-

bly at thirty (30) day intervals, but said bill was vetoed by the Governor on the basis of imposing additional financial costs and on the basis that the same would jeopardize federal programs; and

“Whereas, it is the consensus of the General Assembly that the Constitutional duty and obligation of the General Assembly to appropriate funds and to levy taxes for the support of government makes it essential that the General Assembly be kept informed on the nature of federal aid programs, and the extent to which State funds are being obligated in connection with such programs, now, therefore ... ”

Acts 1979, No. 34 contained a preamble which read: “Whereas, the Legislative Joint Auditing Committee reviewed the financial audit of Arkansas Plan, Inc., a nonprofit corporation; and

“Whereas, Arkansas Plan, Inc., was and has been used as a disbursing agent for federal funds that were received by Arkansas governmental entities; and

“Whereas, the expenditures of these Federal-State funds were being commingled and it appears that there is no valid reason for the accounting to be done

by a nonprofit corporation,

“Now, therefore”

Effective Dates. Acts 1979, No. 34, § 7: Feb. 1, 1979. Emergency clause provided: “It is hereby found and determined by the 72nd General Assembly that the various State colleges, universities and vocational technical schools shall immediately implement new procedures provided

herein and that such compliance by all interested parties will accrue to the benefit of the taxpayers of the State of Arkansas; therefore, an emergency is hereby declared to exist and it is necessary for the public peace, health, and safety that this act be effective from and after the date of its passage and approval.”

19-7-101. Reports to Legislative Council.

(a) The Director of the Department of Finance and Administration shall file quarterly reports with the Legislative Council itemizing and summarizing all contracts or agreements entered into by the Governor with the federal government, or any agencies or instrumentalities thereof, whereby the State of Arkansas is to participate in any program involving the expenditure of federal funds, whether or not state funds are obligated in connection therewith, with respect to new federal programs, or expansion of existing federal programs which were not in existence or which were not implemented by state participation, at the time of the adjournment of the regular session of the General Assembly and entered into prior to the convening of the next regular session of the General Assembly.

(b) The report shall list, with respect to each such contract or agreement:

- (1) A brief statement of the purposes of the agreement;
- (2) The amount of federal funds to be expended thereunder;
- (3) The amount of any state matching funds required in connection with the program, if any;
- (4) The name of the agency or department that will administer the program; and
- (5) Such additional information as will enable the members of the Legislative Council to determine the nature and purposes of the agreement.

History. Acts 1971, No. 191, § 1; A.S.A. 1947, § 13-733.

19-7-102. Legislative review of federal programs.

(a) The Legislative Council shall review the quarterly reports filed by the Director of the Department of Finance and Administration as required in § 19-7-101 and shall submit its findings and recommendations to each succeeding regular session of the General Assembly for enabling legislation to implement, restrict, or prohibit the state's participation in any such new federal program or expanded federal program which was implemented by contract or agreement entered into by the Governor subsequent to the adjournment of the preceding session of the General Assembly.

(b)(1) In the event the next regular session of the General Assembly shall fail to prohibit or restrict the state's participation in any such new or expanded program implemented by contract or agreement signed by the Governor with the federal government during the interim between the immediately preceding regular session of the General Assembly, then the state may continue to participate in that federal program.

(2) On the other hand, if the General Assembly shall restrict or prohibit the state's participation in any such new or expanded federal program implemented by contract or agreement subsequent to the last regular session, it shall be unlawful for the state to continue to participate in, or to expend any state funds in connection with, any such program. All contracts or agreements entered into by the Governor or any department or agency of the state acting under authority of the Governor shall be void, and the state's participation therein shall cease upon the adjournment of the General Assembly or at such later date if a later date for the termination of the state's participation therein has been prescribed by law.

History. Acts 1971, No. 191, § 2; A.S.A. 1947, § 13-734.

19-7-103. Control of college study programs and basic educational grants.

(a) All state agencies, departments, and institutions receiving public funds are charged with the responsibility of the handling, receipt, and disbursement of these funds within their normal framework as provided by the laws of the State of Arkansas. The control of these funds arising from the federal programs of college work-study programs and basic educational opportunity grants received by the named governmental entities within this subchapter shall be within the daily control of the various administrators of the agencies.

(b)(1) The Department of Education shall issue rules for the purpose of administering the funds received for college work-study programs and basic educational opportunity grants for the vocational-technical schools.

(2) The Department of Higher Education shall issue rules for the purpose of administering the funds received by state colleges and universities.

(3) The administration guidelines for the control of the funds of these two (2) programs shall be treated within the fiscal management laws of the State of Arkansas.

(4) Before these rules are implemented, the approval of the Legislative Council and the Legislative Joint Auditing Committee shall be obtained.

(c) Any and all agreements made by state agencies with Arkansas Plan, Inc., are declared to be against public policy of the State of Arkansas, with such agreements being null and void.

(d) Any public servant who does not comply with the provisions of this section commits a Class A misdemeanor. This offense is classified as noncompliance with this section.

History. Acts 1979, No. 34, §§ 1-4; A.S.A. 1947, §§ 17-735—17-738; Acts 2015, No. 1258, § 16.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS.

The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State

Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Amendments. The 2015 amendment inserted designations (b)(1) through (4); deleted “and regulations” following “rules” in (b)(1), (b)(2), and (b)(4); and substituted “shall be obtained” for “must be obtained by a majority vote of both named bodies” in (b)(4).

Cross References. State Student Incentive Grant Program, § 6-61-401.

SUBCHAPTER 2 — OFFICE OF STATE-FEDERAL RELATIONS

SECTION.

19-7-201. Purpose.

19-7-202. Creation.

SECTION.

19-7-203. Duties.

19-7-204. Fund.

Preambles. Acts 1979, No. 66 contained a preamble which read: “Whereas, the General Assembly realizes the daily impact of the full spectrum of federal governmental actions on the health, welfare and prosperity of the State and on the ability of state agencies to fully meet the needs of the citizens of Arkansas; and

“Whereas, the General Assembly recognizes the existence and importance of the many non-governmental, national funding sources, programs, and other such activities to further and expand the well-being of the State;

“Now therefore, the General Assembly of the State of Arkansas recognizes the need to establish in Washington, D.C., an office devoted to establish the means to

achieve these ends”

Effective Dates. Acts 1979, No. 66, § 7: Feb 7, 1979. Emergency clause provided: “It is hereby found and determined by the General Assembly that there is an immediate need for an Office of the State-Federal Relations in Washington, D.C., for the immediate betterment of the State of Arkansas through obtaining federal governmental and private grants and other funds and forms of assistance to protect the health, welfare, and prosperity of the citizens of Arkansas; that the immediate passage of this Act is necessary in order that this Office be created on or before February 15, 1979. Therefore, an emergency is hereby declared to exist, and this Act, being necessary for the immediate

preservation of the public peace, health, and effect from and after its passage and safety, and welfare, shall be in full force approval.”

19-7-201. Purpose.

It is the intent of this subchapter to establish mechanisms through which the legislative and executive branches of state government can work together with Arkansas’s congressional delegation to strengthen and support the state’s relationship with the federal government and to ensure that the state receives all benefits and aid to which it is entitled.

History. Acts 1979, No. 66, § 4; A.S.A. 1947, § 13-742.

19-7-202. Creation.

(a) There is created within the Governor’s office an Office of State-Federal Relations for the State of Arkansas, to be located in Washington, D.C.

(b) The executive head of the office shall be the Director of the Office of State-Federal Relations. The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(c) All budgeting, purchasing, and related management functions shall be performed under the direction and supervision of the director. The director may delegate his or her functions, powers, and duties to personnel within the office as the director shall deem desirable and necessary for the effective and efficient operation of the office.

History. Acts 1979, No. 66, § 1; A.S.A. 1947, § 13-739.

19-7-203. Duties.

The duties of the Office of State-Federal Relations shall include, but not be limited to, the following:

(1) **FEDERAL GRANTS:**

- (A) Monitor opportunities for discretionary grants;
- (B) Identify and comment upon proposed changes in funding formulas; and
- (C) Keep the Governor’s office and state agencies informed on the availability of grants;

(2) **FEDERAL REGULATIONS:**

- (A) Monitor regulatory developments affecting state government;
- (B) Support existing and proposed legislation and regulations favoring the interests of the state; and
- (C) Support the public policy of this state as expressed by the Governor’s office, the General Assembly, and agencies, as appropriate;

(3) **FEDERAL LEGISLATION:**

(A) Keep the Governor's office, agencies, and the General Assembly informed about proposed legislative developments of critical significance to state government; and

(B) Support Arkansas's congressional delegation in efforts to influence federal governmental decisions and policies as they apply to Arkansas;

(4) **INTERSTATE COOPERATION:** Facilitate cooperation with other states on issues of mutual concern;

(5) **INFORMATION CLEARINGHOUSE:** Coordinate the flow of information between state and federal governments;

(6) **REPORTING:** Provide regular performance reports to the Governor, the Legislative Council, and the General Assembly to enable evaluation of the effectiveness of the Washington office; and

(7) **NONGOVERNMENTAL FUNDING SOURCES, PROGRAMS, ETC:**

(A) Discover information on all available additional funding and other resources and direct it to the appropriate state agency or person within the state; and

(B) Take advantage of all resources available on a nationwide basis that can be beneficial to the state and its citizens.

History. Acts 1979, No. 66, § 3; A.S.A. 1947, § 13-741.

19-7-204. Fund.

There is created within the Governor's office the Office of State-Federal Relations Fund.

History. Acts 1979, No. 66, § 2; A.S.A. 1947, § 13-740.

SUBCHAPTER 3 — STATE ECONOMIC OPPORTUNITY OFFICE**SECTION.**

19-7-301, 19-7-302. [Repealed.]

19-7-301, 19-7-302. [Repealed.]

Publisher's Notes. This subchapter, concerning the State Economic Opportunity Office, was repealed by Acts 1995, No. 1296, § 74. This subchapter was derived from the following sources:

19-7-301. Acts 1969, No. 347, §§ 1, 2; A.S.A. 1947, §§ 13-730, 13-731.

19-7-302. Acts 1969, No. 347, § 1; A.S.A. 1947, § 13-730.

SUBCHAPTER 4 — RECEIPT OF FEDERAL FUNDS GENERALLY**SECTION.**

19-7-401. Sale of public lands generally.

19-7-402. Sale of public domain lands and leases.

SECTION.

19-7-403. Lease of lands for flood control purposes.

19-7-404. Revenues derived from forest

SECTION.

reserves.

19-7-405. Geological and Conservation Federal Fund.

19-7-406. Loans on agricultural products.

SECTION.

19-7-407. [Repealed.]

19-7-408. [Repealed.]

19-7-409. Proceeds from sale of lumber on military bases.

Preambles. Acts 1911, No. 423 contained a preamble which read: "Whereas, It is provided by act of Congress, Vol. No. 35, part 1, page 260, that twenty-five per cent of all revenue received from the Forest Reserves shall be paid into the State Treasury at the close of each fiscal year, beginning with the year which closed June 30, 1908, and that such money shall be apportioned to each county from which it was received for the benefit of the public schools and the public roads of such county or counties in such manner as may be determined by enactment of the General Assembly.

"Whereas, The Federal Government is paying this money into the State Treasury in considerable sums, now amounting to each \$5,000.00, and this revenue will continue and greatly increase; and,

"Whereas, This money will lay in the State Treasury without benefit to the public schools or the public roads for the next two years, unless action is taken by the present General Assembly; therefore ... "

Effective Dates. Acts 1911, No. 423, § 5: May 31, 1911. Emergency declared.

Acts 1913, No. 299, § 2: approved Mar. 29, 1913. Emergency declared.

Acts 1945, No. 21, § 3: Feb. 6, 1945. Emergency clause provided: "Whereas the funds for 1942 and 1943 received from the leasing of lands for flood control have been held in the State Treasury for many months awaiting authority for distribution; and

"Whereas the 1944 funds will be received shortly; and

"Whereas the school districts affected are in urgent need of funds, it is necessary for the preservation of public health, peace and safety that this act shall take effect at once.

"Therefore an emergency is hereby declared to exist and this act shall be in full force and effect immediately upon its passage and approval."

Acts 1947, No. 92, § 1: approved Feb. 18, 1947. Emergency clause provided: "It is found that this Act is necessary for the

preservation of the peace, health, and safety of the people, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from, and after, its passage."

Acts 1949, No. 277, § 2: approved Mar. 10, 1949. Emergency clause provided: "It is found that this act is necessary for the preservation of the peace, health and safety of the people, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage."

Acts 1961 (1st Ex. Sess.), No. 23, § 8: Sept. 8, 1961. Emergency clause provided: "It has been found and determined by the General Assembly that the Federal Government has recently enacted legislation to match State Funds 2 to 1 for preparing plans and specifications of area redevelopment programs; that the Planning Division of Arkansas Geological and Conservation Commission shall prepare such plans and specifications; that before any political subdivision of the State may qualify for Federal funds to be made available to said political subdivision of the State, detailed plans and specifications must be prepared for each local project; that implementation of such programs should commence at its earliest date to further the industrialization of Arkansas; and that the immediate passage of this act is necessary to provide funds for the Planning Division for the Arkansas Geological and Conservation Commission. Therefore, an emergency is declared to exist and this act being necessary for the preservation of public peace, health, and safety shall take effect and be in full force from and after its passage and approval."

Acts 1987 (1st Ex. Sess.), No. 43, § 2: June 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Treasurer is currently holding federal funds from the sale of timber on military lands which, by federal law, can be distributed for the benefit of public schools and public roads, only if the General Assembly

prescribes a formula for distribution. Therefore, an emergency is declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full

force and effect from and after its passage and approval.”

Acts 1999, No. 1078, § 92: effective July 1, 2000.

19-7-401. Sale of public lands generally.

The Treasurer of State is authorized and required, from time to time, to draw for and receive, from the United States Secretary of the Treasury, all sums of money which may accrue to the state on account of the five percent (5%) of the net proceeds of the sale of public lands of the United States lying within the State of Arkansas.

History. Acts 1836, § 1, p. 206; C. & M. Dig., § 4493; Pope's Dig., § 5529; A.S.A. 1947, § 13-701.

19-7-402. Sale of public domain lands and leases.

(a) Funds received by the Treasurer of State from the federal government on account of the sale of public domain lands from any funds coming to the Treasurer of State from the Taylor Grazing Act, 43 U.S.C. § 315, shall be distributed to the respective counties in which the property is situated.

(b)(1) Eighty percent (80%) of the funds of each county shall be distributed to the school districts of the county in ratio to the leased territory or public domain sold within the district.

(2) The remaining twenty percent (20%) of the funds for each county shall be credited to the county road fund.

(c) The county treasurer shall make distribution of the school districts' portion on an acreage basis or other equitable basis if the data required for making a distribution of funds as provided in this section is not available at the time funds are available for distribution.

(d)(1) The Treasurer of State shall distribute that portion of the funds that accrue to the schools to the respective counties and distribute the funds that accrue to the county road funds.

(2)(A) It shall be the duty of the county quorum court to provide the county treasurer with a statement showing the distribution of the funds in accordance with law.

(B) Thereafter, the county treasurer shall credit the respective school districts with the amounts indicated.

History. Acts 1999, No. 1078, § 86; 2005, No. 433, § 3; 2009, No. 1476, § 1.

RESEARCH REFERENCES

ALR. Construction and Application of Taylor Grazing Act (43 U.S.C. § 315 et seq.) and Regulations Promulgated Thereunder. 71 A.L.R. Fed. 2d 197.

19-7-403. Lease of lands for flood control purposes.

All funds received by the Treasurer of State from the federal government on account of the lease of lands acquired by the federal government for flood control purposes, and distributed by the Treasurer of State to the respective counties, shall be distributed by each county receiving them as follows:

(1) Eighty percent (80%) of such funds received by each county shall be distributed to the school districts in the county, with each school district to receive the portion thereof that the flood control acreage in that district bears to the total flood control acreage in all districts in the county; and

(2) Twenty percent (20%) of such funds received by each county shall be credited to the county road fund.

History. Acts 1983, No. 680, § 1; A.S.A. 1947, § 13-706.4.

19-7-404. Revenues derived from forest reserves.

(a) All money paid into the State Treasury by the federal government from the revenue derived from the forest reserves within this state for the benefit of public schools and public roads, as provided by congressional act, to the amount of fifty thousand dollars (\$50,000) or as much thereof as may be so paid in, shall be appropriated as follows:

(1) Three-fourths ($\frac{3}{4}$) of the money received by the State Treasury from the federal government from the revenues derived from the forest reserves within this state shall be apportioned to the public schools as provided in § 6-20-218 and Acts 1933, No. 104, § 2 [obsolete]; and

(2) The remaining one-fourth ($\frac{1}{4}$) shall be apportioned to the public roads of the respective counties from which the money was derived.

(b) The Auditor of State, on the first Monday in September of each year, shall draw his or her warrant on the State Treasury in favor of the county treasurer in each county which has any funds from the forest reserve revenue for the remaining one-fourth ($\frac{1}{4}$) of the money. The county treasurers shall add it to the funds of their respective counties for the improvement of the public roads. The Auditor of State's warrant shall be drawn upon a certified copy of an order of the county court, directing the county treasurer to draw the funds.

History. Acts 1911, No. 423, §§ 1, 2, 4; 1913, No. 299, § 1; C. & M. Dig., §§ 5497, 5498, 8995; Pope's Dig., §§ 7139, 7140; A.S.A. 1947, §§ 13-702, 13-703, 13-705; Acts 2001, No. 1553, § 30.

Publisher's Notes. The congressional

act referred to in this section is the Act of May 23, 1908, c. 192, 35 Stat. at Large, 260, codified as 16 U.S.C. § 500.

Cross References. Distribution of national forest funds to schools, § 6-20-218.

19-7-405. Geological and Conservation Federal Fund.

There is created and established in the Treasurer of State's office a fund to be known as the "Geological and Conservation Federal Fund". Federal funds as may be allotted to the Planning Division of the Arkansas Geological Survey are to be deposited into the fund.

History. Acts 1961 (1st Ex. Sess.), No. 23, § 6; A.S.A. 1947, § 13-729.

19-7-406. Loans on agricultural products.

It shall be lawful for the Department of Correction and other state institutions and the counties of the state which produce cotton or other agricultural products to participate in government loans made available upon these agricultural products. The superintendent of any such state institution and the county judge of any such county are authorized to enter into the necessary papers to secure the benefits of these government loans.

History. Acts 1949, No. 332, § 1; A.S.A. 1947, § 13-727.

19-7-407. [Repealed.]

Publisher's Notes. This section, concerning the building or repairing of highways, was repealed by Acts 1987, No. 792,

§ 6. The section was derived from Acts 1949, No. 361, § 1; A.S.A. 1947, § 13-708.

19-7-408. [Repealed.]

Publisher's Notes. This section, concerning funds credited to the Public Institutions Fund, was repealed by Acts 1995,

No. 1296, § 75. The section was derived from Acts 1949, No. 259, § 1; A.S.A. 1947, § 13-728.

19-7-409. Proceeds from sale of lumber on military bases.

(a) All moneys received by the Treasurer of State from the United States Government from the sale of lumber and timber products on United States military installations shall be distributed to the respective counties in which the property is situated.

(b)(1) Seventy-five percent (75%) of the moneys for each county shall be distributed to the respective school districts of the county in the same proportion that the lumber and timber products sold within that school district have to the total of lumber and timber products sold in the county.

(2) The remaining twenty-five percent (25%) of the moneys for each county shall be credited to the county road fund.

(3) The county treasurer shall make distribution of the school districts' portions on an equitable basis if the data required for making distribution of funds as provided in this section is not available at the time funds are available for distribution.

History. Acts 1999, No. 1078, § 87; 2005, No. 433, § 4.

SUBCHAPTER 5 — MISCELLANEOUS FEDERAL GRANT ACT

SECTION.
19-7-501. Title.
19-7-502. Procedure upon availability of unanticipated federal funds.

SECTION.
19-7-503. Additional procedures and limitations.
19-7-504. Recommendation by Governor — Failure to appropriate.

Cross References. Applicability of Higher Education Expenditure Restriction Act, § 6-63-302.
Effective Dates. Acts 2001, No. 1646, § 34: Apr. 16, 2001. The emergency clause provided: “It is hereby found and determined by the General Assembly that changes in the state’s fiscal laws must take effect at the beginning of the fiscal year and that if the current legislative session is extended such that the 90 day period is later than July 1, 2001 such changes will not be timely. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2015, No. 907, § 15: July 1, 2015. Emergency clause provided:
“(a) It is found and determined by the General Assembly of the State of Arkansas that federal law requires the implementation of state-level workforce development acts to authorize federal funding for workforce development programs; that the Arkansas Workforce Development Board must begin work immediately to prepare for the inauguration of local workforce development boards; that the first phase of work by the Arkansas Workforce Development Board must be completed to coincide with the beginning of the 2015-2016 fiscal year on July 1, 2015.

Therefore, an emergency is declared to exist, and § 15-4-37-3704 being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:
“(1) The date of its approval by the Governor;
“(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
“(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.
“(b) It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this act on July 1, 2015, is essential to the inauguration of the programs for which this act is provided, and that in the event of an extension of the legislative session, the delay in the effective date of this act beyond July 1, 2015, could work irreparable harm upon the proper administration and provision of essential programs created in the act. Therefore, an emergency is hereby declared to exist and, except for § 15-4-3704, this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2015.”

19-7-501. Title.

This subchapter shall be cited and referred to as the “Miscellaneous Federal Grant Act”.

History. Acts 1983, No. 346, § 1; A.S.A. 1947, § 13-754.

19-7-502. Procedure upon availability of unanticipated federal funds.

(a) If new or additional federal funds, new or additional Comprehensive Employment and Training Act, or its successor's, funds, or changes in state use of appropriations for programs combined into block grants from the federal government become necessary, or if new federal programs or new Comprehensive Employment and Training Act, or its successor's, programs are initiated that are not authorized or contemplated in the biennial operations appropriation act for the benefiting state agency and such changes make it necessary that the benefiting state agency employ additional personnel or require additional appropriations to expend these funds in order to carry out the objectives of the federal programs or to meet federal requirements, then the head of the affected state agency is authorized to request the approval of the Governor and the Chief Fiscal Officer of the State, as provided in this section, for additional appropriations of one (1) or more new or additional salaried positions to be utilized by that respective agency. The salary rates for these positions are not to exceed the highest maximum annual salary rate or the highest grade level position authorized in the salary schedule of the requesting agency's biennial appropriation act for operations, as governed by the Uniform Classification and Compensation Act, § 21-5-201 et seq., or its successor.

(b) In the case of those agencies, departments, or institutions, that are specifically exempt from the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., such new or additional employees shall be established at salary rates not to exceed the maximum established in the salary schedule of the biennial operations appropriation act for the respective agency for comparable positions. In no event shall the additional positions exceed the maximum number of positions authorized for the agency in the biennial appropriation act for operations.

(c) Whenever the head of a state agency deems it necessary to establish such new or additional appropriations or positions as authorized in this section, he or she shall file with the Governor a written report accompanied by necessary supporting documents. These documents shall set forth the facts, justifications, and circumstances that necessitate such appropriations, the maximum number of positions sought, the titles thereof, and the maximum annual salary rate to be paid each position, a complete line item operations budget for the program, a statement of the expected duration into future years of the federal funds, and whether or not the program is anticipated to eventually be supported either in part or in whole by state revenues.

(d) Upon receipt of the report and supporting documents, for unanticipated miscellaneous federal grants, excluding the Comprehensive Employment and Training Act or its successor, the Governor or the Governor's designee shall study it. If he or she shall determine that the new or additional positions or appropriations are being sought in strict

compliance with this subchapter, the Governor, after seeking the advice of the Legislative Council or the Joint Budget Committee, may approve or modify the request for such additional or new positions or appropriations as, in his or her judgment, he or she deems necessary. He or she shall forward a copy thereof to the head of the requesting agency and the Chief Fiscal Officer of the State. Upon receipt thereof, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section and the applicable classifications of appropriations as enumerated in §§ 19-4-520 — 19-4-525 as amended, or its successor, and in accordance with any federal limitations as may be applicable to the funds which are available.

History. Acts 1983, No. 346, § 2; A.S.A. 1947, § 13-755.

U.S. Code. The Comprehensive Em-

ployment and Training Act (CETA), referred to in this section, was repealed by Public Law 97-300.

19-7-503. Additional procedures and limitations.

In addition to the limitations and procedures established in § 19-7-502, the following additional procedures and limitations shall be held in strict compliance:

(1) All new or additional federal funds or new or additional state funds under the Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., expended by the benefiting agency under the authority of any appropriation provided by the General Assembly for such purposes and transferred through the provisions and procedures established in this section shall be deposited into, and expended from, the State Treasury;

(2)(A) Appropriations authorized by the General Assembly for such purpose and transferred pursuant to the procedures set out in this section shall be strictly used for the expenditure of the Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., grant-in-aid moneys or other federal grant-in-aid moneys received, reimbursements from the federal government, and local or private funds designated as matching funds for these federal projects.

(B) Amounts appropriated under subdivision (2)(A) of this section shall be deposited into the State Treasury for the benefit of the State of Arkansas, or any of its agencies, for use in emergency relief needs or for the operation of any Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., or its successor's, programs or any other programs approved by the federal government for which no appropriations or insufficient appropriations were provided elsewhere for such purposes;

(3)(A) Additional positions authorized under § 19-7-502 shall be paid from the Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., funds deposited into the State Treasury for that specific Arkansas Workforce Innovation and Opportunity Act, § 15-

4-3701 et seq., or its successor's, program as may be authorized through the provisions of this subchapter or from federal, local, or private funds deposited into the State Treasury for that specific federal program as may be authorized through this subchapter.

(B) However, general, special, trust, or miscellaneous state funds may not be used for the purpose of paying salaries of the positions so authorized;

(4) The Chief Fiscal Officer of the State may promulgate rules he or she may deem necessary and proper in order to carry out this subchapter;

(5) Sections 19-4-1807 and 19-4-1901, or their successors, that establish the federal grants, aid, and reimbursements procedures and federal funds procedures of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., shall be strictly complied with;

(6) Unless provided elsewhere, all federal funds received by state agencies, departments, boards, and commissions benefiting from the establishment of the biennial operations appropriation acts authorized by the General Assembly for new federal or Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., or its successor's, programs shall be deposited into the State Treasury, except when such deposit is expressly prohibited, in writing, as a condition for approval of the grant or reimbursement by the federal grant or agency; and

(7) An appropriation as authorized by the General Assembly for new federal or Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., or its successor's, programs that the Chief Fiscal Officer of the State transfers or causes to be transferred to the various agencies shall not be utilized for entering into or making payments for personal service contracts.

History. Acts 1983, No. 346, § 3; A.S.A. 1947, § 13-756; Acts 2001, No. 1646, § 18; 2015, No. 907, § 5.

Amendments. The 2015 amendment substituted "Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq." for "Arkansas Workforce Investment Act, § 15-4-2201 et seq." throughout the section; in (1), inserted "new or additional state funds under the" and deleted "or its successor's funds"; in (2), inserted the (A) and (B) designations; substituted "Amounts appropriated under subdivision

(2)(A) of this section shall" for "These amounts are to" in (2)(B); in (3), inserted the (A) and (B) designations; deleted "or its successor's" preceding "funds deposited" in (3)(A); in (4), substituted "may promulgate rules" for "is authorized to promulgate such rules, regulations, procedures, and guidelines as rules" and deleted "the provisions of" at the end; substituted "Sections" for "The provisions of §§" in (5); and, in (7), substituted "An" for "No" and "shall not be utilized" for "may be utilized".

19-7-504. Recommendation by Governor — Failure to appropriate.

(a) Upon the convening of each regular session of the General Assembly, the Governor shall submit to the General Assembly and shall recommend to the General Assembly the appropriation of the necessary federal or state matching funds, or both, estimated to be necessary with respect to any program during the subsequent fiscal biennium.

(b) If the General Assembly shall fail to appropriate funds for any program entered into with the federal government as authorized by the laws of the State of Arkansas, on June 30 following adjournment of the regular session of the General Assembly, the program shall cease to exist, and the State of Arkansas shall no longer participate in the program.

History. Acts 1983, No. 346, § 4; A.S.A. 1947, § 13-757.

SUBCHAPTER 6 — GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS

SECTION.

- 19-7-601. Legislative determination.
- 19-7-602. Definitions.
- 19-7-603. Administration.
- 19-7-604. Federal grants, aids, and reimbursement procedures.
- 19-7-605. Indirect cost reimbursements.
- 19-7-606. Transfer of reimbursements.

SECTION.

- 19-7-607. Expenditure of federal funds.
- 19-7-608. Information exchange programs.
- 19-7-609. Revenue sharing.
- 19-7-610. Advice of legislative departments.

Cross References. Federal grants and aids, § 19-4-1901 et seq.

Effective Dates. Acts 1983, No. 498, § 12: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, that the administration of grant, aid and reimbursement programs by the federal government has a significant impact on the people and government of the State of Arkansas, and that a review procedure for such programs is desirable for the efficient operation of State government. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1985, No. 513, § 3: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that federal OMB Circular A-87, and other federal laws authorize State agencies who receive federal funds to seek reimbursement for indirect costs incurred in the administration of such federal funds, and that it is essential that the State agencies of this State which elect to receive such cost reimbursement be authorized to qualify for the payment, yet such agency should not be obligated to obtain the same if the administrative

head of said agency determines it would be in the better interest of the agency not to seek indirect cost reimbursement; and that the immediate passage of this Act is necessary to clarify the existing laws of this State to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (1st Ex. Sess.), No. 44, § 18: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1989.”

19-7-601. Legislative determination.

It is found and determined by the General Assembly that all governmental units, various nongovernmental organizations, and the general public in the State of Arkansas should have the opportunity to review and comment upon applications for federal funding assistance. The General Assembly further finds that it is desirable that the State of Arkansas pursue the utilization of indirect cost reimbursements available to state agencies from the various federal agencies. It is further found that the state should cooperate with the federal government in the development and utilization of intergovernmental information exchange programs which may be of benefit to the State of Arkansas and to utilize any available federal assistance funds for the furtherance of the purposes of this subchapter.

History. Acts 1983, No. 498, § 1; A.S.A. 1947, § 13-758.

19-7-602. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Executive Order 12372, Intergovernmental Review of Federal Programs” means an instrument signed and placed into effect by the President of the United States on July 14, 1982;

(2) “Federal funding assistance” means financial aid available from the various federal government agencies to units of state and local governments, as well as to private for-profit and private nonprofit organizations;

(3) “Indirect cost reimbursements” means the reimbursement by a federal agency to agencies of state government for the costs incurred which are necessary for the efficient conduct of a federal grant or contract, as stated in United States Office of Management and Budget Circular A-87, “A Guide for State and Local Government Agencies — Cost Principles and Procedures for Establishing Cost Allocations Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government”;

(4) “Office of Intergovernmental Services” means an organizational unit within the Department of Finance and Administration;

(5) “Revenue sharing” means payments to units of local government as authorized by the State and Local Fiscal Assistance Act of 1972, as amended;

(6) “Review and comment” means the process by which any unit of government, organization, or individual may request to review and provide comments upon any application for federal funding assistance, as limited by other sections of this subchapter; and

(7) "State clearinghouse" means that section of the Office of Intergovernmental Services which is designated as the governmental unit responsible for coordinating the review of applications for federal funding assistance, pursuant to Executive Order 12372 and other provisions of this subchapter.

History. Acts 1983, No. 498, § 2; A.S.A. 1947, § 13-759.

Assistance Act of 1972, referred to in this section, is codified as 31 U.S.C. § 6701 et seq.

U.S. Code. The State and Local Fiscal

19-7-603. Administration.

The Office of Intergovernmental Services shall be responsible for carrying out the duties and responsibilities of this subchapter.

History. Acts 1983, No. 498, § 3; A.S.A. 1947, § 13-760.

19-7-604. Federal grants, aids, and reimbursement procedures.

(a) REQUESTS FOR FEDERAL GRANTS.

(1) All formal applications for federal funds for grants, aids, and reimbursements originated by a state agency, board, commission, department, or institution shall be submitted to the Department of Finance and Administration prior to their submission to the granting source.

(2) Applications shall include, in a manner prescribed by the Director of the Department of Finance and Administration, a summary of the proposed project.

(3) The summary will include the indirect cost rate of the applicant agency, together with a projection of funds to be received as indirect cost reimbursement.

(4) The department shall file with the Bureau of Legislative Research a summary of these applications for their review.

(b) PRELIMINARY PROPOSALS.

(1) Preliminary, preapplication, or informal proposals which may eventually result in a commitment of personnel, space, facilities, or state funds shall be submitted to the department at the time they are submitted to the federal granting agency.

(2) In order to eliminate overlap, inefficiency, or a violation of legislative intent, the director may require a review of the proposal, soliciting comment from other agencies which might be affected, and may require the suspension of negotiations until the review is completed.

(3) The provisions of this subsection shall not be applicable to institutions of higher education. However, a copy of the preliminary proposals shall be submitted to the department for the information of the department.

(c) **PROCEDURAL REQUIREMENTS.** The department shall prescribe procedures relative to preliminary proposals and formal applications for federal grants, aids, and reimbursements.

(d) RECEIPT OF FUNDS.

(1) When any state agency receives notification of an award of any federal funds, grants, aids, or reimbursements, including unsolicited funds, the department shall be notified on forms to be prescribed by the director.

(2) Included on such forms will be a section to report payments from federal funds for indirect cost reimbursements resulting from:

(A) Overhead costs of the agency, board, commission, department, or institution; and

(B) Overhead costs of state central services allocated to that agency, board, commission, department, or institution through the Statewide Cost Allocation Plan.

(3) The department will provide the Bureau of Legislative Research a summary of such notifications for review.

(e) STATE CLEARINGHOUSE.

(1) The Office of Intergovernmental Services is to function as the state clearinghouse for coordinating the review and comment process relative to applications for federal funding assistance under Executive Order 12372 and other provisions of this subchapter.

(2) The department shall be responsible, in consultation with state and local elected officials, for developing procedures to implement the review and comment process for applications for federal funding assistance.

History. Acts 1983, No. 498, § 4; A.S.A. aids, and reimbursement procedures, 1947, § 13-761. § 19-4-1801 et seq.

Cross References. Federal grants,

19-7-605. Indirect cost reimbursements.

(a) The Office of Intergovernmental Services shall be responsible for preparation of the Statewide Cost Allocation Plan for the allocation of state central services' overhead costs to the various state agencies who elect to seek reimbursement for them according to the provisions of United States Office of Management and Budget Circular A-87.

(b) The Office of Intergovernmental Services also shall:

(1) Prepare indirect cost rate proposals on behalf of the state agencies; or

(2) Provide assistance as necessary to state agencies that prepare their own indirect cost rate proposals if the state agency elects to seek payment from the federal government for these costs.

(c) The Office of Intergovernmental Services shall be authorized to negotiate the statewide cost allocations with the appropriate federal authorities and indirect cost proposals prepared by the Office of Intergovernmental Services with any agency.

(d) Any agency that chooses to utilize indirect cost rates according to the provisions of this subchapter shall submit a copy of its indirect cost rate proposals to the Department of Finance and Administration and

also a copy of its indirect cost rate agreement after the cognizant federal agency has approved the rate proposal.

History. Acts 1983, No. 498, § 5; 1985, No. 513, § 1; A.S.A. 1947, § 13-762.

19-7-606. Transfer of reimbursements.

The Director of the Department of Human Services is authorized to transfer from the Department of Human Services federal funds as designated by the Chief Fiscal Officer of the State to the appropriate state fund account those federal funds recovered as reimbursement for indirect costs which are not required to be transferred to the Constitutional Officers Fund or State Central Services Fund pursuant to this subchapter.

History. Acts 1989 (1st Ex. Sess.), No. 44, § 9.

A.C.R.C. Notes. Former § 19-7-606, concerning the transfer of reimburse-

ments, is deemed to be superseded by this section. The former section was derived from Acts 1985, No. 649, § 26; A.S.A. 1947, § 13-763.1.

19-7-607. Expenditure of federal funds.

The Department of Finance and Administration is authorized to receive federal funds, enter into contracts with federal agencies, and expend any such funds as necessary to accomplish the duties set out in this subchapter.

History. Acts 1983, No. 498, § 7; A.S.A. 1947, § 13-764.

19-7-608. Information exchange programs.

The Office of Intergovernmental Services is authorized to cooperate with agencies of the federal government in the development and utilization of intergovernmental information exchange programs which may be of benefit to the State of Arkansas.

History. Acts 1983, No. 498, § 8; A.S.A. 1947, § 13-765.

19-7-609. Revenue sharing.

The Office of Intergovernmental Services shall be responsible for providing technical assistance to units of local government on matters relating to federal revenue sharing. The Office of Intergovernmental Services is designated as the liaison between the federal Office of Revenue Sharing [abolished] and local governments in Arkansas.

History. Acts 1983, No. 498, § 9; A.S.A. 1947, § 13-766.

19-7-610. Advice of legislative departments.

It is recognized by the legislative and executive departments of government that some of the executive departments' authority or responsibility as provided in this subchapter should possibly have the legislative departments' concurrence before proceeding with such authority or responsibility. The legislative department, via the Legislative Joint Auditing Committee, the Legislative Council, joint interim committees, interim committees, or subcommittees of the foregoing may request the Director of the Department of Finance and Administration to seek the legislative department's advice before exercising certain authority or responsibility as authorized by this subchapter.

History. Acts 1983, No. 498, § 10; A.S.A. 1947, § 13-767.

A.C.R.C. Notes. As enacted, former subsection (A) of this section provided that § 1 of Article 4 of the Constitution of the State of Arkansas provides that the power of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confined to a separate body of magistracy; those which are legislative to one, those which are executive to another, and those

which are judicial to another.

As enacted, former subsection (B) of this section provided that § 2 of Article 4 of the Constitution of the State of Arkansas provides that no person, or collection of persons, being one of the legislative, executive, or judicial departments, shall exercise any power belonging to either of the others, except in the instances expressly directed or permitted in the state Constitution.

SUBCHAPTER 7 — TITLE XX SOCIAL SECURITY FUNDS

SECTION.

- 19-7-701. Contract services — Advance payment.
- 19-7-702. Minimum program standards.
- 19-7-703. Loan provision.
- 19-7-704. Deduction of tax withholding for individual contract providers.

SECTION.

- 19-7-705. Use of funds.
- 19-7-706. Transfer of funds and appropriations.
- 19-7-707. Transfer of retirement benefits.
- 19-7-708. Personnel transfers.

U.S. Code. Title XX of the Social Security Act, referred to in this subchapter, is codified as 42 U.S.C. § 1397 et seq.

Effective Dates. Acts 1981, No. 538, § 16; July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work ir-

reparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 772, § 10; July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the

appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

19-7-701. Contract services — Advance payment.

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the Director of the Department of Human Services is authorized to pay one-twelfth ($\frac{1}{12}$) of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of the reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the director has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the director shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

(c)(1) If the request is approved, the Chief Fiscal Officer of the State shall loan the necessary amount to the appropriate fund accounts within the Department of Human Services from the Budget Stabilization Trust Fund.

(2) However, the balance of any loans made under subdivision (c)(1) of this section during the course of a fiscal year shall be recovered by the department and repaid to the fund by June 30 of that fiscal year.

History. Acts 1981, No. 538, § 4; A.S.A. 1947, § 13-743; Acts 2009, No. 251, § 26.

19-7-702. Minimum program standards.

(a) In order to unify and consolidate standards for services of clients under programs funded by Title XX Social Security funds, the Director of the Department of Human Services shall establish, by July 1, 1980, minimum program standards for the services provided by all government or private agencies under Title XX.

(b) In developing these standards, the director will consult with such other agencies, organizations, or individuals as may be appropriate.

(c) These standards may be amended by the director from time to time, provided that the terms of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., are complied with.

History. Acts 1981, No. 538, § 5; A.S.A. 1947, § 13-744.

19-7-703. Loan provision.

(a) It is found and determined that the continued operations of the Title XX Services Program of the Department of Human Services, in accordance with the approved annual operations plan, are, from time to time, seriously impaired by either administrative oversights and delays by the United States Office of Grants Management or by the processes of federal fiscal year conversion. It is further found and determined that such delays in the proper preparation and transmittal of federal grant award authorizations and letter of credit instruments have created unnecessary hardships on the providers of services and the needy citizens of this state. Therefore, upon certification of the pending availability of federal funding by the Director of the Department of Human Services, the Chief Fiscal Officer of the State may grant temporary advances, the maximum amount not to exceed five million dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the appropriate account of the Department of Human Services so affected by such delays.

(b) The Chief Fiscal Officer of the State shall recover within a period of twenty (20) days such temporary advances upon receipt of the grant award authorizations or letter of credit instruments.

History. Acts 1981, No. 538, § 6; A.S.A. 1947, § 13-745.

19-7-704. Deduction of tax withholding for individual contract providers.

(a) It is found and determined that certain rules and regulations of the Social Security Administration and the Internal Revenue Service require the deduction of Federal Insurance Contributions Act and federal income tax withholding from persons providing services under individual purchase-of-service contracts, who are in fact independent contractors, or employees of the person receiving the service, and that there is presently no provision for payment of Federal Insurance Contributions Act and federal income tax withholding for these individuals. It is further found and determined that the use of individual contracts is necessary to the operation of the Title XIX and Title XX programs, particularly in the areas of day care and services to the elderly. Therefore, whenever the regulations of the Social Security Administration or the Internal Revenue Service require the deduction of Federal Insurance Contributions Act or federal income tax withholding for an individual providing services under a Title XX individual purchase-of-service contract, the Department of Human Services may pay the necessary Federal Insurance Contributions Act tax out of federal funds and state or local donated matching funds and may collect the necessary Federal Insurance Contributions Act and federal income tax withholding as agent for the client receiving the services.

(b) Individuals for whom Federal Insurance Contributions Act tax is paid and Federal Insurance Contributions Act and federal income tax

withholding is deducted under this section shall not be considered as employees of the state for the purposes of determining eligibility for unemployment compensation or workers' compensation, for the purpose of state income tax withholding, or for any other purposes.

History. Acts 1981, No. 538, § 7; 1981, No. 772, § 4; A.S.A. 1947, §§ 13-746, 13-746n.

U.S. Code. The Federal Insurance Contributions Act, referred to in this sec-

tion, is codified as 26 U.S.C. § 3101 et seq. Titles XIX and XX of the Social Security Act are codified as 42 U.S.C. § 1396 et seq. and 42 U.S.C. § 1397 et seq., respectively.

19-7-705. Use of funds.

The Director of the Department of Human Services is authorized to use funds earned through service fees, audit settlements, or federal program settlements for operation of the Title XX service program. Any unanticipated federal funding received under this provision will be handled in accordance with the terms of the Miscellaneous Federal Grant Act, § 19-7-501 et seq.

History. Acts 1981, No. 538, § 8; A.S.A. 1947, § 13-747.

19-7-706. Transfer of funds and appropriations.

(a)(1) The Director of the Department of Human Services, in accordance with rules established by the Chief Fiscal Officer of the State, shall have the authority to transfer funds and appropriations from the appropriate division of the Department of Human Services to the various agencies of the department which receive allotments of Title XX funds. These transfers shall be limited to the allotment of funds available to each agency within the department.

(2)(A) In the event that funds and appropriations transferred under this section are not fully utilized, they will be available for transfer back to the appropriate division of the department for reallocation.

(B) It is further intended that if transfer of appropriations among line items appropriated to the appropriate division of the department becomes necessary for effective operation of the program, these shall be made in accordance with rules established by the Chief Fiscal Officer of the State. However, no such transfer will be used to increase authorization for regular salaries.

(b) The Chief Fiscal Officer of the State and the director shall cooperate to establish such fund accounts for deposit and disbursement of federal and local Title XX funds as are necessary for the orderly operation of a Title XX services program. The Chief Fiscal Officer of the State and the director shall establish procedures for the transfers of funds necessary to make reimbursement to providers or to agency fund accounts in payment for eligible services. These procedures will include provision for use of state matching funds where appropriated by law.

History. Acts 1981, No. 538, § 9; A.S.A. 1947, § 13-748.

19-7-707. Transfer of retirement benefits.

Any employee who is now a member of any retirement system shall not lose any retirement benefits accrued in the system by the reorganization of the Title XX service program. An employee so affected shall have the option of continuing as a member of the retirement system of which the employee is a member at the time of transfer or to join the retirement system for which the transfer makes the employee eligible. However, the affected employee shall make his or her election within six (6) months from the date of transfer.

History. Acts 1981, No. 538, § 10; A.S.A. 1947, § 13-749.

19-7-708. Personnel transfers.

No employee transferred as a result of the reorganization of the Office of Title XX Services shall lose status under the Arkansas Rules for Merit Systems Administration as a result of transfer.

History. Acts 1981, No. 538, § 11; A.S.A. 1947, § 13-750.

Publisher's Notes. This section may

be affected by Acts 1985, No. 348, § 5, reorganizing the Department of Human Services. See § 25-10-101 et seq.

SUBCHAPTER 8 — SALE OR LEASE OF MINERALS, OIL, AND GAS

SECTION.

19-7-801. Federal lands.

19-7-802. [Repealed.]

Effective Dates. Acts 1983, No. 157, § 4: Apr. 16, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Federal Mineral Leasing Act monies received by the State Treasurer from the United States Government are now distributed under the provisions of Section 1 of Act 21 of 1945, as amended; that increased leasing of minerals, oil, and gas and/or the sale or leasing of minerals, oil, and gas on military and other lands belonging to the United States Government located in this State has the potential of generating substantial funds for the use and benefit of the State of Arkansas and its political subdivisions; that clarification of the method of distributing Federal Mineral Leasing Act monies derived from federal military lands different from the method set forth in Act 21 of 1945, as amended, is

necessary to provide for a more equitable use and distribution of said monies between the State of Arkansas and its political subdivisions in which such federal mineral lands, other than military lands, are located. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 16, 1983."

Acts 1983, No. 921, § 4: Apr. 16, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Federal Mineral Leasing Act monies received by the State Treasurer from the United States Government are distributed under the provisions of Section 1 of Act 21 of 1945, as amended; that increased leasing of minerals, oil, and gas and/or the leasing of minerals, oil, and gas

on lands other than military lands belonging to the United States Government located in this State has the potential of generating substantial funds for the use and benefit of the State of Arkansas and its political subdivisions; that a method of distributing such Federal Mineral Leasing Act monies different from the method set forth in Act 21 of 1945 is necessary to

provide for a more equitable use and distribution of said monies between the State of Arkansas and its political subdivisions. Therefore an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after April 16, 1983.”

19-7-801. Federal lands.

(a) Moneys received by the Treasurer of State from the federal government for a sale, lease, royalty, bonus, or rental of oil, gas, or mineral lands belonging to the federal government and located in this state shall be distributed under this section.

(b) Moneys received under subsection (a) of this section by and after September 1, 2008, by the Treasurer of State shall be credited by the Treasurer of State as follows:

(1) Fifty percent (50%) of the moneys received shall be credited to the General Revenue Fund Account of the State Apportionment Fund for distribution to various funds that participate in the distribution of general revenues in the respective proportion to each fund, to be used for the purposes under the Revenue Stabilization Law, § 19-5-101 et seq.; and

(2) Fifty percent (50%) of the moneys received shall be distributed to the counties in which the federal lands that generate the moneys are located according to federal reports that identify the counties with the federal lands that generate the moneys. Moneys under this subdivision (b)(2) shall be distributed by the Treasurer of State as follows:

(A)(i) Sixty percent (60%) of the moneys shall be distributed to the County Aid Fund, to be distributed by the Treasurer of State to the county treasurer of each county that has a school district with a boundary that includes a portion of the federal lands that generate the moneys.

(ii) A county is responsible for distributing moneys under subdivision (b)(2)(A)(i) of this section to a school district with a boundary that includes a portion of the federal lands that generate the moneys.

(iii) If there is more than one (1) school district with a boundary that includes a portion of the federal lands that generate the moneys within a county receiving these moneys, then each school district in that county shall receive a proportionate share of the moneys based on the school district's portion of the acreage over the total acreage in all districts in that county;

(B) Fifteen percent (15%) of the moneys received under this subdivision (b)(2) shall be distributed to the County Aid Fund to be distributed by the Treasurer of State to the county treasurer for credit to the county road funds of the counties to which these moneys are allocated; and

(C)(i) Twenty-five percent (25%) of the moneys received under this subdivision (b)(2) shall be distributed to the County Aid Fund for distribution by the Treasurer of State to the county treasurer of the county to which the moneys are to be distributed.

(ii) Except as provided under subdivision (b)(2)(C)(iii) of this section, on receipt of the moneys under this subdivision (b)(2)(C), the county treasurer of the county shall distribute the moneys to the county general fund and to the respective cities, towns, school districts, community college districts, and county and municipal libraries in the county in the proportion that each taxing unit shares in the real and personal property taxes collected in the county.

(iii) A school district in the county that receives a distribution of funds under subdivisions (b)(2)(A) and (B) of this section and the county road fund that receives a distribution of funds under subdivisions (b)(2)(A) and (B) of this section are not entitled to receive an additional distribution of the funds under this subdivision (b)(2)(C).

History. Acts 1983, No. 921, §§ 1, 2; A.S.A. 1947, §§ 13-706.1, 13-706.2; Acts 1999, No. 1318, § 5; 2009, No. 1476, § 2.

Publisher's Notes. Acts 1985, Nos.

164 and 705, § 1, repealed Acts 1983, No. 921, § 3, that provided for the expiration of the 1983 act on June 30, 1985.

19-7-802. [Repealed.]

Publisher's Notes. This section, concerning temporary permits, was repealed by Acts 2009, No. 1476, § 3. The section

was derived from Acts 1983, No. 157, §§ 1, 2; A.S.A. 1947, §§ 13-752, 13-753; Acts 1999, No. 1318, § 6.

SUBCHAPTER 9 — RESETTLEMENT OR RURAL REHABILITATION PROJECTS

SECTION.

- 19-7-901. Definitions.
- 19-7-902. Agreements for payments by United States in lieu of taxes.
- 19-7-903. Determination of payment amounts.
- 19-7-904. Contents of agreement.
- 19-7-905. Duplicate copies of agreement.
- 19-7-906. Government project fund of county.

SECTION.

- 19-7-907. Statement of apportionment — Distribution of funds.
- 19-7-908. Right of political subdivision to request payment.
- 19-7-909. Disposition of funds.
- 19-7-910. Services of subdivision not to be denied.

19-7-901. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Agreement" means a contract and shall include renewals and alterations of the contract;

(2) "County judge" means the county judge of any county in this state;

(3) "Fund" means, unless otherwise expressed, the government project fund established pursuant to § 19-7-906;

(4) "Governing body" means the board, body, or persons in which the powers of a political subdivision as body corporate, or otherwise, are vested;

(5) "Political subdivision" means any agency or unit of this state which is authorized to levy taxes or empowered to cause taxes to be levied;

(6) "Project" means any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision and shall include the persons inhabiting such a project; and

(7) "Service" means such public and municipal functions performed for property in and persons residing within a political subdivision.

History. Acts 1939, No. 361, § 1; A.S.A. 1947, § 13-717.

19-7-902. Agreements for payments by United States in lieu of taxes.

(a) The county judge of any county in this state is authorized and empowered to make requests of the United States, for and on behalf of the county and the political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay. The county judge may enter into agreements with the United States in the name of the county for the performance of services by the county and such political subdivisions for the benefit of the project and for the payment by the United States to the county, in one (1) or more installments, of such sums in lieu of taxes.

(b) Each political subdivision shall participate in such funds in proportion to the prevailing local tax involved on such property.

History. Acts 1939, No. 361, § 2; A.S.A. 1947, § 13-718.

19-7-903. Determination of payment amounts.

The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf the agreement is entered into, of performing services for the benefit of a project during the period of the agreement after taking into consideration the benefits to be derived by the subdivision from the project. However, these sums shall not be in excess of the taxes which would result to the subdivision for the period if the real property of the project within the subdivision were taxable.

History. Acts 1939, No. 361, § 3; A.S.A. 1947, § 13-719.

19-7-904. Contents of agreement.

Each agreement entered into pursuant to § 19-7-902 shall contain the names of the political subdivisions with respect to which it is consummated and a statement of the proportionate share of the payment by the United States to which each subdivision shall be entitled.

History. Acts 1939, No. 361, § 4; A.S.A. 1947, § 13-720.

19-7-905. Duplicate copies of agreement.

(a) The county judge shall prepare duplicate copies of each agreement for payment of sums in lieu of taxes and file one (1) with the county treasurer and one (1) with the clerk of the county court.

(b) The clerk of the county court shall notify each political subdivision, for and on whose behalf the agreement is executed, that it has been consummated and shall state the share of the payment due under it to which the subdivision is entitled.

(c) On or before the date on which any payment of sums in lieu of taxes is due, the county treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. The county treasurer shall give to the United States a receipt in the name of the county for all payments of sums in lieu of taxes.

History. Acts 1939, No. 361, § 5; A.S.A. 1947, § 13-721.

19-7-906. Government project fund of county.

(a) The county treasurer shall establish a fund in the county treasury to be known as the "government project fund". The fund shall contain an account with each political subdivision which is entitled to a share of a payment in lieu of taxes.

(b) Whenever payment is received, the county treasurer shall, without any deduction, apportion it to the several accounts in the fund pursuant to the agreement under which the payment is made.

History. Acts 1939, No. 361, § 6; A.S.A. 1947, § 13-722.

19-7-907. Statement of apportionment — Distribution of funds.

(a) After apportioning any payments to the several accounts, as provided in § 19-7-906, the county treasurer shall prepare, in duplicate, a complete itemized statement of the apportionment, one (1) copy of which shall be filed with the county judge and the other filed with the clerk of the county court.

(b)(1) The county judge, by appropriate resolution, shall order the distribution of each subdivision's share of sums in lieu of taxes to the several subdivisions entitled to a share.

(2) The clerk of the county court shall thereupon draw warrants upon the county treasurer to the order of the political subdivisions entitled to a share of such payment of sums in lieu of taxes.

(3) Whenever such warrant is presented to the county treasurer, he or she shall debit the proper account in the fund and shall pay immediately the amount of such warrant in full, without any deduction, to the political subdivision presenting it, notwithstanding any law providing the order in which warrants shall be paid.

(4) The county treasurer shall not honor such warrant unless it is countersigned by the presiding officer of the governing body of the political subdivision.

(c)(1) The acceptance by a political subdivision of any warrant delivered pursuant to this section shall be considered as an approval of the agreement under which the payment was received.

(2) If any governing body of a political subdivision shall refuse to receive any warrant delivered pursuant to this section, the amount thereof shall be refunded by the county to the United States.

History. Acts 1939, No. 361, § 7; A.S.A. 1947, § 13-723.

19-7-908. Right of political subdivision to request payment.

(a) If the United States declines to deal with a county judge with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie in more than one (1) county, then that subdivision is authorized to make request of the United States for the payment of such sums in lieu of taxes as the United States may agree to pay. The subdivision is empowered to enter into agreements with the United States for the performance by the subdivision of services for the benefit of a project, and for the payment by the United States to the subdivision, in one (1) or more installments, of sums in lieu of taxes.

(b) The amount of the payment may be based upon the cost of performing the services during the period of the agreement, after taking into consideration the benefits to be derived by the subdivision from the project, but shall not be in excess of the taxes which would result to the political subdivision during the period if the real property of the project within the political subdivision were taxable.

(c) Whenever any payment is received by a subdivision under an agreement entered into pursuant to this section, the governing body of the subdivision shall issue a receipt of the payment to the United States.

History. Acts 1939, No. 361, § 8; A.S.A. 1947, § 13-724.

19-7-909. Disposition of funds.

(a) All moneys received by a political subdivision pursuant to § 19-7-907 or § 19-7-908 shall be deposited into such funds or items of a fund as may be designated in the agreement.

(b) If the agreement does not make such designation, the moneys shall be deposited into such funds or items of a fund as the governing body of the subdivision shall, by appropriate resolution, direct.

History. Acts 1939, No. 361, § 9; A.S.A. 1947, § 13-725.

19-7-910. Services of subdivision not to be denied.

In the absence of an agreement for payment of sums in lieu of taxes by the United States as provided in this subchapter, no provision of this subchapter shall be construed to relieve any political subdivision of this state of the duty of furnishing for the benefit of a project all services which the subdivision usually furnishes for the property in, and persons residing within, the subdivision without a payment of sums in lieu of taxes.

History. Acts 1939, No. 361, § 10; A.S.A. 1947, § 13-726.

SUBCHAPTER 10 — EDUCATIONAL FUNDING

SECTION.

19-7-1001. Federal Adult Basic Education Fund.

SECTION.

19-7-1002. Federal Elementary and Secondary Education Fund.

19-7-1001. Federal Adult Basic Education Fund.

There shall be established on the books of the Treasurer of State a fund to be known as the “Federal Adult Basic Education Fund”.

History. Acts 1965, No. 328, § 3.

19-7-1002. Federal Elementary and Secondary Education Fund.

There shall be established on the books of the Treasurer of State a fund to be known as the “Federal Elementary and Secondary Education Fund”.

History. Acts 1965, No. 329, § 3.

CHAPTER 8**DEPOSITORIES FOR PUBLIC FUNDS**

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. SECURITIES FOR DEPOSITS.

SUBCHAPTER

3. LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT.

RESEARCH REFERENCES

Am. Jur. 63C Am. Jur. 2d, Pub. Funds,
§ 8 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-8-101. Definitions.
- 19-8-102. Legal funds.
- 19-8-103. Penalties.
- 19-8-104. Investment of public funds.
- 19-8-105. Annual list of eligible banks.
- 19-8-106. Depository boards.
- 19-8-107. Depository agreements.
- 19-8-108. Mortgages and securities as security.

SECTION.

- 19-8-109. Housing agency bonds as security.
- 19-8-110. Farm credit obligations as security.
- 19-8-111. Additional authority for investment of public funds — Definition.

A.C.R.C. Notes. Section 19-3-207 et seq. supersedes this subchapter and § 19-8-201 et seq. with respect to state funds only.

Cross References. Depositories of improvement districts required to give bond, § 14-86-1801 et seq.

Suburban improvement districts to select depository, § 14-92-207.

Effective Dates. Acts 1921, No. 465, § 3: approved Mar. 26, 1921. Emergency clause provided: "That all laws and parts of laws in conflict with this act, be, and the same are hereby repealed, and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage."

Acts 1933 (1st Ex. Sess.), No. 26, § 2: Sept. 2, 1933. Emergency clause provided: "Whereas, the securities now provided by law to be accepted as security for the deposit of public funds are totally inadequate and

"Whereas, such condition has meant and will mean great loss to the public, an emergency is hereby declared and this act being necessary for the immediate preservation of the public peace, health and safety, it shall be in full force and effect from and after its passage and approval."

Acts 1935, No. 21, § 6: approved Feb. 7, 1935. Emergency clause provided: "All

laws and parts of laws in conflict herewith are hereby repealed. It is ascertained that due to the prevailing deposit rates of interest and due to the requirements for making deposit of public funds it is impossible for such funds to be lawfully deposited in banks and impossible for many public officials to obtain or make official bonds. An emergency is therefore declared to exist and this act shall take effect and be in full force from and after its passage."

Acts 1937, No. 174, § 2: approved Mar. 3, 1937. Emergency clause provided: "It is found and declared to be a fact that many people in this State will be applicants for loans to be insured by the Federal Housing Administration, and that they are in need of immediate relief, that the passage of this act will facilitate the making of such loans, give relief to debtors and contribute to the better business conditions of the State; therefore, this act being necessary for the preservation of the public peace, health and safety of the State, an emergency is declared to exist, and this act shall be in force and effect from and after its passage."

Acts 1945, No. 62, § 2: approved Feb. 21, 1945. Emergency clause provided: "All laws and parts of laws in conflict herewith are hereby repealed. It is ascertained that due to the prevailing deposit rates of interest and due to the requirements for

making deposit of public funds it is often impossible for such funds to be lawfully deposited in banks within the required time limit and impossible for many public officials to obtain or make official bonds. An emergency is therefore declared to exist and this act shall take effect and be in full force from and after its passage.”

Acts 1947, No. 122, § 2: effective on passage.

Acts 1964 (1st Ex. Sess.), No. 18, § 3: Mar. 27, 1964. Emergency clause provided: “It is hereby found and determined by the General Assembly that the laws of this State providing for the designation of depositories of public funds are working an undue hardship upon newly chartered banks in the State; that clarification of such laws is necessary in order to prevent undue, unnecessary and costly delay in designating such newly chartered banks as depositories of public funds, and that only by the immediate passage of this Act may such situation be corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1973, No. 107, § 4: Feb. 12, 1973. Emergency clause provided: “It has been found and it is hereby declared that many Arkansas school districts are presently losing interest revenues because of confusion regarding the laws governing deposit of school district funds and that this condition can be bettered only by the immediate effectiveness of this Act. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in force and effect upon its passage and approval.”

Acts 1975, No. 216, § 7: Feb. 18, 1975. Emergency clause provided: “In order that the Farm Credit System can continue to provide farm credit to Arkansas farmers and improve agricultural conditions in Arkansas, an emergency is declared to exist and this Act shall take effect and be in full force from and after its passage and approval.”

Acts 1995, No. 770, § 5: Mar. 24, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that private donations are many times made to municipalities; and that

under present law, the investment of these funds is so restricted that earnings are substantially decreased; that this act establishes the Prudent Man Rule as the standard for investing these funds; and that this act shall be given effect immediately in order to grant municipalities the ability as soon as possible to enhance their earnings on donated funds. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 2005, No. 86, § 2: Feb. 8, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that local communities and banks are often not receiving the benefits from the local investment of the communities’ public funds due to the size of their deposits; that local communities can receive the benefits from the investment of local public funds while ensuring the safety and soundness of the investments by providing additional authority for the investment of those funds in accounts insured by the Federal Deposit Insurance Corporation; and that the exercise of the authority granted by this act is immediately necessary to enable local banks to better serve their local communities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 458, § 2: Mar. 21, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the limitations on the investment of public funds have resulted in economic harm to Arkansas; that the limitation on investment of public funds creates inflexibility and potential loss of investment funds; and that this act is immediately necessary to provide greater flexibility in the options available for investment of public funds. Therefore, an emergency is declared to

exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the

expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-8-101. Definitions.

(a) "Bank" or "banking institution" means any state bank, national bank, savings bank, savings association, thrift, or other financial institution authorized to do business and having a main office or branch office in this state, which is insured by the Federal Deposit Insurance Corporation.

(b) "Public funds" or "funds" means any and all kinds of funds handled by treasurers, collectors, commissioners, sheriffs, and clerks.

History. Acts 1935, No. 21, § 4; Pope's A.S.A. 1947, § 13-804; Acts 2001, No. Dig., § 4330; Acts 1973, No. 89, § 2; 1436, § 1.

19-8-102. Legal funds.

The legal funds referred to in § 19-8-101, and §§ 19-8-103 — 19-8-107 as being eligible for deposit in depositories shall include any and all funds that may come into the hands of all treasurers, collectors, commissioners, sheriffs, and clerks by reason of their official capacities as commissioners.

History. Acts 1935, No. 21, § 4; Pope's Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804.

19-8-103. Penalties.

(a) It is a felony, punishable by fine of not more than one thousand dollars (\$1,000) or one (1) year in prison, or both, for any officer of any bank to accept for deposit more public funds in the aggregate than that amount designated by this section, § 19-8-101, § 19-8-102, and §§ 19-8-104 — 19-8-107. In no instance shall more than twenty-five percent (25%) of the total general deposits of public funds be accepted until they have been reduced to the proper proportion of general deposits. When necessary, the depository boards are authorized to order a reduction of deposits in any bank so as to conform to the twenty-five percent (25%) limitation provided for in this section. Any public officer knowingly depositing public funds in excess of this amount shall likewise be guilty of a felony and subject to the same penalty as prescribed in this subsection and shall be removed from office.

(b) The penalties provided in this section also shall apply in the event of a depository bank's investing any deposits in excess of the twenty-five percent (25%) limitation in any manner other than that

provided in § 19-8-105(b) permitting a deposit in excess of the twenty-five percent (25%) limitation.

History. Acts 1935, No. 21, § 5; Pope's Dig., § 4331; A.S.A. 1947, § 13-805.

19-8-104. Investment of public funds.

(a) Except as provided in subsection (b) of this section, all public funds as defined in § 19-8-101 shall be deposited into banks located in the state.

(b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from this section and deposit public funds into an out-of-state bank if:

(1) The school district is designated as an isolated school district under §§ 6-20-601 and 6-20-602;

(2) The school district lies on the borders of the state line;

(3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;

(4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and

(5) The out-of-state bank meets all other requirements concerning collateralization of state funds.

History. Acts 1935, No. 21, § 5; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1991, No. 459, § 1; 1995, No. 770, § 1; 2011, No. 629, § 2.

Publisher's Notes. The version of § 6-20-601 referred to in (b)(1) was repealed in 1997.

Amendments. The 2011 amendment, in (a), substituted "subsection (b)" for "subsections (b) and (c)" and "state" for "State of Arkansas"; in (b), substituted "public funds" for "state funds" and "if" for "under the following conditions"; and deleted (c).

19-8-105. Annual list of eligible banks.

(a) Annually, on December 1, the Bank Commissioner shall furnish to the governing board of each city, or town officer, and the county board of each county, and also any officer of any improvement district or any other political subdivision, having the supervision of public funds or funds belonging to the state or any political subdivision a list of all the banks or banking institutions doing business in this state which are members of the Federal Deposit Insurance Corporation. The commissioner shall recommend the maximum amount of deposit of public funds each bank shall be allowed to receive. None of these public funds shall be deposited into any bank other than those contained in the list.

(b) In no instance shall the commissioner recommend, or any bank accept, for deposit more public funds than twenty-five percent (25%) of the total of its general deposits, exclusive of the public funds. Public money in excess of the amount allowed in this section, if approved by the governing board, may be deposited into an authorized bank if the excess deposit is carried in cash, United States Government bonds, Housing and Home Finance Agency bonds, or demand loans on cotton of

the kind commonly known as “Commodity Credit Corporation loans”, being only such loans as are guaranteed by the United States.

History. Acts 1935, No. 21, § 1; Pope’s Dig., § 4327; A.S.A. 1947, § 13-801.

A.C.R.C. Notes. The Housing and Home Finance Agency, referred to in this section, has been superseded by the

United States Department of Housing and Urban Development pursuant to the Housing and Urban Development Act of 1965, Pub. L. No. 89-117.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Fifteenth Annual Survey of Arkansas Law, 15 U. Ark. Little Rock L.J. 427.

CASE NOTES

ANALYSIS

Liability of Bank Not Designated a Depository.
Savings and Loans.

Liability of Bank Not Designated a Depository.

A bank which permitted a circuit clerk to cash a check showing on its face it was made for drainage taxes, with notice clerk was committing a breach of trust, even though not designated as depository of public funds, was liable for participation

in the breach of trust irrespective of whether it was the clerk’s agent or debtor. Drainage Dist. of Poinsett County v. Citizens Bank of Jonesboro, 205 Ark. 435, 170 S.W.2d 60 (1943).

Savings and Loans.

Arkansas savings and loans are not eligible as depositories for public funds under Act 21 of 1935. Arkansas State Banking Dep’t v. Arkansas League of Sav. Insts., Inc., 307 Ark. 474, 821 S.W.2d 472 (1991).

19-8-106. Depository boards.

(a)(1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and also shall designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b)(1) Except as provided in subdivision (b)(2) of this section, the following persons shall constitute a three-member board to designate depositories and supervise the depositing of municipal funds:

(A) A mayor;

(B) A city clerk or recorder or clerk-treasurer or recorder-treasurer; and

(C) A city council member selected by the city council.

(2) Although the board shall not total more than three (3) members, the city council may replace one (1) of the three (3) board members listed in subdivision (b)(1) of this section with the city finance officer or other official.

(3) A majority of the board members shall be necessary to conduct business and to constitute a quorum.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

History. Acts 1935, No. 21, § 2; Pope's Dig., § 4328; Acts 1945, No. 57, § 1; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1987, No. 250, § 1; 2011, No. 619, § 1.

Amendments. The 2011 amendment rewrote (b).

19-8-107. Depository agreements.

(a)(1) After the receipt from the Bank Commissioner of the list of banks or banking institutions and recommended amounts of public funds each may accept, the depository boards shall:

(A) Designate the banks or banking institutions into which the funds shall be deposited; and

(B) With each bank or banking institution designated under subdivision (a)(1)(A) of this section, enter into a depository agreement and any supplemental agreements under subsection (c) of this section needed to perfect security of public deposits not fully insured directly by the United States.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state. The certificate shall contain the recommended amount of public funds the bank may accept.

(3) All depository agreements shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board.

(b)(1) The treasurers or other public officials or other persons having custody of these funds shall deposit them into the designated depositories.

(2) The depositing of these funds into the designated depositories shall relieve the public officer or other person and his or her sureties

from any liability for the loss of the funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely deposit and investment of public funds to earn optimum interest consistent with the prudent investor rule defined by Arkansas law.

(c)(1) County and municipal officials shall:

(A) Require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured directly by the United States; and

(B) Enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.

(2)(A) The State Board of Finance shall make available upon request to any county or municipality sample depository agreement forms and any necessary supplemental agreement forms required for collateralizing public funds.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(3) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal laws and regulations so that the governmental entity or political subdivision depositing public funds holds a valid claim in deposits and collateral given for those deposits against, and prevent avoidance of such a claim by, the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(4) All security required under this subsection shall meet the requirements of an eligible security under § 19-8-203 and § 23-47-203(c).

(5) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

History. Acts 1935, No. 21, § 3; Pope’s Dig., § 4329; Acts 1945, No. 62, § 1; 1947, No. 122, § 1; 1964 (1st Ex. Sess.), No. 18, § 1; A.S.A. 1947, § 13-803; Acts 1987, No. 250, §§ 2, 3; 1995, No. 232, § 9; 2003, No. 68, §§ 1, 2; 2011, No. 619, § 2; 2013, No. 405, § 1.

Amendments. The 2011 amendment, in (a)(2), inserted “depository” and deleted

“upon request therefor” following “commissioner”; inserted “and municipal” in (a)(3)(A); substituted “create an enforceable” for “achieve a” in (a)(3)(B); inserted (a)(3)(C); substituted “prudent investor” for “prudent man” in (c)(3); and inserted “and municipal” in (d)(1).

The 2013 amendment rewrote the section.

CASE NOTES

ANALYSIS

County Funds.
General Deposits.
Manner of Deposit.
Sale of Bonds.

Subrogation.

County Funds.

Under Acts 1907, No. 208, as amended by Acts 1911, No. 258, no discretion was given the county court in the matter of selecting a depository for county funds;

rather, the selection was to be made by advertisement and awarded to the highest responsible bidder. *Casey v. Independence County*, 109 Ark. 11, 159 S.W. 24 (1913) (decision under prior law).

Where a bank seeking to become the depository of county funds proposed to pay "one-fourth of one per cent per annum more than any other bid" offered, it was held that the proposition did not constitute a bid as it could not be acted upon alone without reference to anything outside itself. *Grant County Bank v. McClellan*, 112 Ark. 550, 166 S.W. 550 (1914) (decision under prior law).

General Deposits.

A deposit of the funds of an improvement district in a bank, although the funds were known to be a trust fund in the hands of the official depositing them, was held to be a general deposit in the absence of a written agreement making them a special deposit. *Taylor v. Street Imp. Dist.*, 183 Ark. 524, 37 S.W.2d 84 (1931) (decision under prior law).

An improvement district making a general deposit in a bank stood upon the same footing as other general creditors and was entitled to no preference on the bank's insolvency. *Taylor v. Street Imp. Dist.*, 183 Ark. 524, 37 S.W.2d 84 (1931) (decision under prior law).

Manner of Deposit.

The manner in which the funds of an improvement district were deposited in a

depository bank was held not to affect the rights or obligations of the surety on its bond if they were so deposited as to clearly show that they were funds belonging to the district. *American Bonding Co. v. Board of Street Improv. Dist.*, 187 Ark. 300, 59 S.W.2d 605 (1933) (decision under prior law).

Sale of Bonds.

Where a bank undertook to sell county bonds for the county, the funds derived from their sale constituted trust funds for which the county was entitled to a preference on the bank's insolvency. *Taylor v. State*, 186 Ark. 648, 55 S.W.2d 83 (1932) (decision under prior law).

Where a bank, without authority, permitted bonds to be substituted for trust funds derived from the sale of county bonds, the fact that the substituted bonds were, by agreement, transferred to the county depository and part of them sold did not estop the county from claiming the balance of the trust fund. *Taylor v. State*, 186 Ark. 648, 55 S.W.2d 83 (1932) (decision under prior law).

Subrogation.

Sureties indemnifying an improvement district for funds deposited in an insolvent bank had, by subrogation, no greater rights than the district had. *Little Rock St. Imp. Dist. No. 508 v. Taylor*, 184 Ark. 92, 40 S.W.2d 786 (1931) (decision under prior law).

19-8-108. Mortgages and securities as security.

Whenever securities must be furnished by any depository in the State of Arkansas as security for the deposit of any funds whatsoever, or wherever securities must be deposited with any official of the State of Arkansas pursuant to any statute of this state, mortgages insured and debentures issued by the Federal Housing Administration and obligations of national mortgage associations shall be considered eligible securities for such purposes.

History. Acts 1937, No. 174, § 1; Pope's Dig., § 4337; A.S.A. 1947, § 13-807.

19-8-109. Housing agency bonds as security.

All banks which are by law authorized to accept deposits of public funds may tender, and all officers or boards whose duty it is to award contracts for the deposit of public funds and all officers or boards whose

duty it is to accept security for the deposit of public funds may accept bonds of the Housing and Home Finance Agency as security for deposits of public funds at the face value of the bonds.

History. Acts 1933 (1st Ex. Sess.), No. 26, § 1; Pope's Dig., § 4336; A.S.A. 1947, § 13-806.

A.C.R.C. Notes. The Housing and Home Finance Agency, referred to in this

section, has been superseded by the United States Department of Housing and Urban Development pursuant to the Housing and Urban Development Act of 1965, Pub. L. No. 89-117.

19-8-110. Farm credit obligations as security.

It shall be lawful for any person, firm, or corporation required by law to maintain a cash deposit as public security, or in lieu thereof to file a bond of approved security in favor of the State of Arkansas, to deposit with the officer of the State of Arkansas designated as the custodian of funds, in lieu of a cash deposit, an amount of notes, bonds, debentures, or other similar obligations issued by the Federal Land Banks, Federal Intermediate Credit Banks, or Banks for Cooperatives, or any other obligations issued pursuant to the provisions of an act of the United States Congress known as the Farm Credit Act of 1971, and acts amendatory thereto, which at the market value thereof shall equal or be in excess of the amount required as cash deposit.

History. Acts 1921, No. 465, § 2; Pope's Dig., § 788; Acts 1975, No. 216, § 1; A.S.A. 1947, § 13-808.

1971, referred to in this section, is codified as 12 U.S.C. §§ 2001 et seq., 2151 et seq., and 2205 et seq.

U.S. Code. The Farm Credit Act of

19-8-111. Additional authority for investment of public funds — Definition.

(a) Notwithstanding any law to the contrary, including §§ 19-8-103 and 19-8-105, the state or local government and any trusts established under the Local Government Joint Investment Trust Act, § 19-8-301 et seq., may invest public funds through an eligible bank under § 19-8-105 if:

(1) The bank arranges for the deposit of all or a portion of the funds into one (1) or more banks or savings and loan associations located inside the United States for the account of the state or local government or trust;

(2) Each deposit is insured by the Federal Deposit Insurance Corporation for one hundred percent (100%) of the principal and accrued interest of the deposit;

(3) The bank acts as custodian of the deposits made for the account of the state or local government or trust and, as custodian, is charged with the care of the deposits and their segregation in appropriate records reflecting the total principal amount of the deposits for each custodial account; and

(4) On the date the funds are deposited according to subdivision (a)(1) of this section, the bank receives an amount of deposits from

customers of other financial institutions located inside the United States that is equal to or greater than the amount of the funds invested by the state or local government or trust.

(b) For any investment of public funds under this section, the provisions of §§ 19-8-106 and 19-8-107 apply only to the eligible bank selected under subsection (a) of this section.

(c) Additional security shall not be required for investments of public funds under this section.

(d) As used in this section, “local government” means any city, county, town, or other political subdivision of the State of Arkansas, including, but not limited to, any:

- (1) School district or community college district;
- (2) Improvement or other taxing or assessing district;
- (3) Department, instrumentality, or agency of any city, county, or other political subdivision, including, but not limited to, any local fire and police pension or relief funds; and
- (4) Local government association as defined in § 19-8-303.

History. Acts 2005, No. 86, § 1; 2013, No. 458, § 1.

Amendments. The 2013 amendment in the introductory language of (a), deleted “but not limited to” following “including” and substituted “established” for “created” following “trusts”; in (a)(1), inserted “into”, deleted “in certificates of deposit in” following “funds”, and substituted “inside” for “within” following “located”; deleted “certificate of” preceding

“deposit” twice in (a)(2); in (a)(3), substituted “deposits made” for “certificates of deposit issued” and substituted “deposits” for “certificates of deposit” twice; in (a)(4), substituted “On the date” for “At the time”, substituted “according to subdivision (a)(1) of this section” for “and the certificates of deposit are issued”, and substituted “inside” for “in” following “located”.

SUBCHAPTER 2 — SECURITIES FOR DEPOSITS

SECTION.

19-8-201. Legislative intent and construction.

SECTION.

19-8-202. Definition.

19-8-203. Eligible security for deposits.

Publisher’s Notes. Section 19-3-207 et seq. supersedes § 19-8-101 et seq. and this subchapter with respect to state funds only.

Effective Dates. Acts 1975, No. 373, § 6; Mar. 10, 1975. Emergency clause provided: “It is hereby found and determined by the General Assembly that the existing law specifying which securities are acceptable as security for deposit of public funds

is unclear, and that such condition has meant and will continue to mean great loss to the public of the State of Arkansas unless revised and clarified immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

19-8-201. Legislative intent and construction.

The law specifying what securities may be accepted as security for the deposit of public funds of the State of Arkansas or any political subdivision of the state is inadequate in that it is unduly restrictive on the types of securities which may be accepted. The types of securities which may be accepted as security for deposits of public funds is in need of being expanded, and this subchapter is supplementary to and does not repeal any existing law which specifies certain securities which may be accepted as security for deposit of public funds. To that end, this subchapter is declared to be remedial and should be liberally construed.

History. Acts 1975, No. 373, § 1; A.S.A. 1947, § 13-809.

19-8-202. Definition.

As used in this subchapter, “public funds” means, but shall not be limited to, funds of:

- (1) The State of Arkansas, or any agency, department, board, commission, or instrumentality thereof;
- (2) Any political subdivision of the State of Arkansas, or any agency thereof;
- (3) Any school board or school district;
- (4) Any improvement or other taxing or assessing district; and
- (5) Any public corporation or authority created by or recognized by the State of Arkansas, or any political subdivision thereof.

History. Acts 1975, No. 373, § 2; A.S.A. 1947, § 13-810.

19-8-203. Eligible security for deposits.

(a) Whenever, pursuant to any statute of the state, any depository in the State of Arkansas must furnish security for the deposit of any public funds or whenever any security must be granted to any public official in connection with public funds the following shall be considered as eligible security for such purposes and subject to the depositor’s discretion regarding the suitability of the collateral:

(1) The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;

(2) A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated “A” or better by any one (1) or more of the following rating agencies:

- (i) A.M. Best Company, Inc.;
- (ii) Standard & Poor’s Insurance Rating Service;
- (iii) Moody’s Investors Service, Inc.; or
- (iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;

(3) Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

- (i) A.M. Best Company, Inc.;
- (ii) Standard & Poor's Insurance Rating Service;
- (iii) Moody's Investors Service, Inc.; or
- (iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties; or

(4) An irrevocable standby letter of credit issued by a Federal Home Loan Bank.

(b) The aggregate market value of assets pledged or escrowed or the face amount of the surety bond, private deposit insurance, or letter of credit securing the deposit of funds by any single depositor must be equal to or exceed the amount of the deposit to be secured.

(c) Notwithstanding subdivision (a)(1) of this section, if any political subdivision, school district, improvement district, or other issuer has defaulted on any bonds or other obligations within the preceding period of ten (10) years, bonds or other obligations of the defaulting political subdivision, school district, improvement district, or other issuer shall not be eligible as security for the deposit of public funds or as security required to be deposited in connection with public funds.

History. Acts 1975, No. 373, § 3; A.S.A. 1947, § 13-811; Acts 2001, No. 310, § 1.

Cross References. Securing of deposits, § 23-47-203.

SUBCHAPTER 3 — LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT

SECTION.

- 19-8-301. Title.
- 19-8-302. Purpose.
- 19-8-303. Definitions.
- 19-8-304. Creation of trusts.
- 19-8-305. Terms of trust agreement.
- 19-8-306. Filing of trust agreement and supplements thereto.
- 19-8-307. Common trust funds — Individual investment accounts.

SECTION.

- 19-8-308. Authorized common trust fund investments.
- 19-8-309. Power to own property and contract.
- 19-8-310. Records.
- 19-8-311. Direct deposits by State of Arkansas into local government cash management trust account.

Effective Dates. Acts 1993, No. 583, § 14; Mar. 18, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is currently no authority for local governments to invest in common trust fund units of public trusts, and that such authority would make it possible for local

governments to invest their cash balances more efficiently and earn greater investment returns. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

19-8-301. Title.

This subchapter may be cited as the “Local Government Joint Investment Trust Act”.

History. Acts 1993, No. 583, § 1.

19-8-302. Purpose.

The purpose of this subchapter is to permit local governments in Arkansas to join together to establish trusts for joint investment of moneys not currently needed so as to enhance their investment opportunities and increase investment earnings. This subchapter shall be deemed to provide an additional and alternative method of investment for local governments. It is supplemental to existing investment authority.

History. Acts 1993, No. 583, § 2.

19-8-303. Definitions.

For purposes of this subchapter:

(1) “Local government” shall mean:

(A) Any city, county, school district, or community college district of this state;

(B) Any department, instrumentality, or agency of these entities, including local fire and police pension and relief funds; and

(C) Any department, instrumentality, or agency of these entities, including a local government association;

(2) “Local government association” shall mean the Arkansas Municipal League, the Association of Arkansas Counties, the Arkansas School Boards Association, or any similar organization whose membership is composed of local governments or their elected officials;

(3) “Participant” shall mean a local government which is a party to a trust agreement;

(4) “Private agency” shall mean any individual or any form of business organization authorized under the laws of this or any other state; and

(5) “Trust agreement” shall mean the agreement, indenture, or other instrument creating a trust pursuant to this subchapter, together with any supplements thereto.

History. Acts 1993, No. 583, § 3; 1995, No. 615, § 5.

19-8-304. Creation of trusts.

(a) Ten (10) or more local governments may create a trust under this subchapter by ordinance, resolution, or otherwise pursuant to law of their governing bodies to provide for the joint investment of moneys not

currently needed by the local governments creating the trust and by other local governments that become parties to the trust.

(b) Each trust shall be created by trust agreement.

(c) Following the creation of a trust agreement, other local governments may become parties to the trust agreement with appropriate action taken by the local depository board, board of directors of a school district, or other authorized party responsible for decisions related to bank deposits and investments.

History. Acts 1993, No. 583, § 4; 2013, No. 217, § 1.

Amendments. The 2013 amendment rewrote (a) and (c).

19-8-305. Terms of trust agreement.

(a) Each trust agreement shall specify the following:

(1) Its duration;

(2)(A) The number, qualifications, method of election, and terms of the trustees who shall serve as the governing body of the trust.

(B)(i) Each trust shall have a minimum of seven (7) trustees.

(ii) Only current elected officials and active or retired employees of a local government or of a local government association may serve as trustees.

(iii) A majority of the trustees must be officials or employees of participants.

(C)(i) Each trustee shall be elected by the participants for a term not to exceed three (3) years.

(ii) The terms of office shall be staggered so that at least one-third ($\frac{1}{3}$) of the trustees are elected each year.

(D) Each participant shall be entitled to one (1) vote in each election of trustees;

(3) The qualifications, terms, and conditions necessary for additional local governments to become parties to the trust;

(4) The terms and conditions under which local governments may withdraw as parties to the trust; provided, that any party shall have the unconditional right to withdraw upon not more than ninety (90) days' notice;

(5) The permissible methods for acquiring, holding, and disposing of real and personal property used in the operation of the trust;

(6) The maximum amount of funds of participants the trust may accept for investment;

(7) The permissible methods to be employed in accomplishing the partial or complete termination of the trust and for disposing of property upon the partial or complete termination;

(8) The terms and conditions under which the trust agreement may be amended and supplemented; and

(9) Any other necessary and proper matters.

(b) Each addition of a local government as a party to a trust, each withdrawal of a local government as a party to a trust, and each amendment or supplement to a trust agreement shall be evidenced by a written supplement to the trust agreement.

History. Acts 1993, No. 583, § 5; 2009, No. 417, § 1.

19-8-306. Filing of trust agreement and supplements thereto.

No trust agreement or supplement to a trust agreement shall be effective until it is filed with the Secretary of State.

History. Acts 1993, No. 583, § 6.

19-8-307. Common trust funds — Individual investment accounts.

(a) Each trust created pursuant to this subchapter shall establish one (1) or more common trust funds. Moneys held for the credit of a common trust fund shall be invested only in authorized common trust fund investments.

(b) Assets held for the credit of a common trust fund shall be divided into units of participation, and each participant who invests in the common trust fund shall be the owner of such units in proportion to the amount of its investment. Such units shall be authorized investments for participants.

(c) If authorized by its trust agreement, and notwithstanding any other provision of state law, a trust may also act as trustee of individual investment accounts of participants. Moneys held for the credit of an individual investment account shall be invested only in obligations which are, at the time of investment, authorized investments for the participant under applicable law, excluding this subchapter.

History. Acts 1993, No. 583, § 7.

19-8-308. Authorized common trust fund investments.

A trust created under this subchapter may invest moneys held for the credit of a common trust fund in the same manner as cities under §§ 19-1-504 and 19-1-505 and according to the investment policy adopted by the board of directors of the trust.

History. Acts 1993, No. 583, § 8; 2011, No. 629, § 3.

Amendments. The 2011 amendment rewrote the section.

19-8-309. Power to own property and contract.

(a) A trust created under this subchapter shall, subject to any limitations in the trust agreement, have power to own real and personal property necessary to carry out its functions and to contract with local government associations and private agencies for necessary services in carrying out its functions.

(b) Without limiting the generality of the foregoing, a trust may be authorized to employ an investment advisor, a trust administrator, a custodian of investments, and a person or firm to market trust investment programs.

History. Acts 1993, No. 583, § 9.

19-8-310. Records.

(a) Each trust shall cause proper books of account and records to be kept in which complete and correct entries shall be made of all transactions relating to its operations.

(b) Such books shall be available for inspection by each participant at reasonable times.

(c) Each trust shall have the records audited by the Legislative Joint Auditing Committee or by a certified public accountant one (1) time each year.

(d) A copy of the audit shall be furnished to each participant and a copy shall be filed with the Secretary of State.

History. Acts 1993, No. 583, § 10.

19-8-311. Direct deposits by State of Arkansas into local government cash management trust account.

(a) Notwithstanding any other provision of law, the following funds remitted to municipalities by the State of Arkansas may be deposited directly into a municipality's Arkansas local government cash management trust account, established pursuant to this subchapter:

(1) The Municipal Aid Fund, as described in § 19-5-601;

(2) The special highway revenues made available by the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.; and

(3) The special revenues listed in the Revenue Classification Law, § 19-6-201 et seq., including, but not limited to, those generated by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(b)(1) Upon receipt of a resolution enacted by the governing body of a municipality, the officials responsible for the transmittal of funds to the municipality shall directly deposit the funds into the municipality's local government cash management trust account.

(2) The resolution shall state the following:

(A) The name of the municipality;

(B) The funds to be transmitted; and

(C) The municipality's local government cash management trust account number.

(c)(1) Direct deposits as provided in this section shall continue to be made until the state official or officials responsible for transmitting the funds receive a copy of a resolution enacted by the governing body of the municipality requesting the termination of the deposits.

(2) Upon receipt, the funds shall be transmitted as provided by this section.

History. Acts 2003, No. 329, § 1.

CHAPTER 9
PUBLIC OBLIGATIONS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. STATE OBLIGATIONS.
- 3. REFUNDING BONDS.
- 4. REGISTERED PUBLIC OBLIGATIONS ACT OF ARKANSAS.
- 5. REVENUE BOND REPORTING ACT.
- 6. REVENUE BOND ACT OF 1987.
- 7. TAXABLE BOND ACT OF 1989.

RESEARCH REFERENCES

Am. Jur. 72 Am. Jur. 2d, States, § 83 et seq. **C.J.S.** 81A C.J.S., States, § 449 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-9-101. Form of bonds that may be issued — Definitions.
- 19-9-102. Replacement of lost, destroyed, or stolen bonds.

SECTION.

- 19-9-103. Paying agents to remit funds after three years.
- 19-9-104. Bonds held five years.
- 19-9-105. Pay until barred.

Cross References. Election required for issuance of bonds by state, except for refunding bonds, Ark. Const. Amend. No. 20.

Local Government Bond Act of 1985, § 14-164-301 et seq.

Preambles. Acts 1941, No. 350 contained a preamble which read: “Whereas, the refinancing of public bond issues at reduced interest rates, or redeeming such bonds, is sometimes delayed or prevented by reason of the fact that some of the bonds have become lost, mislaid, destroyed, or stolen and there is no existing law in Arkansas providing for the issuance of replacement bonds in such cases as in many States”

Effective Dates. Acts 1941, No. 113, § 7: Mar. 3, 1941. Emergency clause provided: “In view of the fact that in all bond refunding negotiations certain bonds are misplaced by their owners and never presented for retirement after being called in and the paying agents retain said funds indefinitely to the detriment of the State of Arkansas and its political subdivisions,

an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval.”

Acts 1941, No. 350, § 2: effective on passage.

Acts 1965, No. 494, § 4: Mar. 20, 1965. Emergency clause provided: “It has been found that certain of the purchasers of bonds issued by the State, its boards, commissions and agencies, and by counties, municipalities and improvement districts require the bondholders to have the registrable options, as in this act provided, and that if these options are made available, it will enable the issuing authorities to dispose of their bonds upon more favorable terms, and inasmuch as there is an immediate need for the issuing authorities to have the benefits of this act, it is hereby declared that an emergency exists, and this act, being necessary for the immediate preservation of the public peace, health and safety, shall be in force and take effect from and after its passage and approval.”

19-9-101. Form of bonds that may be issued — Definitions.

(a) In the case of authorizations under any existing law for the State of Arkansas, any board, commission, or agency of the State of Arkansas, any county, any municipality, or any improvement district to issue bonds or coupon bonds, the authorization shall be deemed to, and is extended to, include the authority to issue bonds that may be either coupon bonds, payable to bearer, or may be registrable as to principal only with interest coupons, or may be registrable as to both principal and interest without coupons. These bonds may be exchanged for bonds of another denomination, which bonds of another denomination may in turn be either coupon bonds payable to bearer or coupon bonds registrable as to principal only, or bonds registrable as to both principal and interest without coupons, as the governing body shall determine.

(b) As used in this section, unless the context otherwise requires:

(1) "Improvement district" means all improvement districts, drainage districts, levee districts, and other special districts formed for the purpose of constructing or maintaining a local improvement to be financed by the assessment of benefits upon the real property in the district and the levy of a tax on those assessed benefits;

(2) "Municipality" means any city of the first class, city of the second class, or incorporated town; and

(3) "Governing body" means the board of commissioners, city council, county court, board of trustees, or other person or body given the power and duty by the state under existing law to issue bonds by the state, any board, commission, or agency of the state, any county, any municipality, or any improvement district.

(c) This section is to be liberally construed, and the authority set forth in it is cumulative and supplemental to all other provisions of law authorizing the issuance of registrable bonds.

History. Acts 1965, No. 494, §§ 1-3;
A.S.A. 1947, §§ 13-1011 — 13-1013.

19-9-102. Replacement of lost, destroyed, or stolen bonds.

(a) In cases where any valid bond, note, interest coupon, or evidence of indebtedness, hereinafter called "instrument", issued by the State of Arkansas, or any of its departments, agencies, or political subdivisions, including, but not limited to, school districts and improvement districts of all kinds, becomes lost, mislaid, destroyed, or stolen, the body which issued the instrument, or its successor, shall issue and deliver to the one owning the right, title, and interest to and in the instrument a replacement instrument, but only on the filing with the body of:

(1) An affidavit reciting ownership of all right, title, or interest in and to the lost, mislaid, destroyed, or stolen instrument and giving its name, the name of the board, commission, or body which issued it, the date of maturity, the denomination and number and that of any lost, mislaid, destroyed, or stolen interest coupon appertaining thereto, and

briefly describing the circumstance of such loss, mislaying, destruction, or theft; and

(2) A bond in double the face amount of such replacement, including any interest coupons affixed thereto, with a surety company licensed to do business in Arkansas as surety thereon, conditioned that if the principal, the heirs, legal representatives, successors, or assigns of the principal, or any of them, shall, in case the instrument so lost, mislaid, destroyed, or stolen be found or come into the hands or power of any of them, or into the hands, custody, or power of any other person, deliver, or cause it to be delivered unto the obligor for cancellation, and also shall at all times indemnify and save harmless the obligor from and against any and all loss, claims, actions, suits, damages, charges, or expenses of any nature and character by reason of the lost, mislaid, destroyed, or stolen instrument, or the issuance of a replacement in lieu thereof, or the paying or crediting as prescribed of the face amount of the lost, mislaid, destroyed, or stolen instrument without the surrender thereof, then the obligation shall be void, otherwise to remain in full force and effect.

(b) Nothing in this section shall be construed to limit or abridge any defense which the obligor may have against the lost, mislaid, destroyed, or stolen instrument; nor shall anything in this section waive any provision of any statute of limitations.

History. Acts 1941, No. 350, § 1; A.S.A. 1947, § 13-1001.

19-9-103. Paying agents to remit funds after three years.

(a) Paying agents, with whom the state or any political subdivision of the state has deposited or shall deposit funds for the payment of obligations of the state or of any political subdivision of the state, are required to remit to the Treasurer of State all such funds which have been in their hands for a period of three (3) years.

(b) The Treasurer of State shall invest these funds from paying agents in government or state bonds which he or she shall hold in trust for the holders of the obligations for the payment of which the funds were deposited with the paying agents.

(c) On the presentation to the Treasurer of State of any valid obligation that was payable out of any fund remitted to him or her by a paying agent, the Treasurer of State shall sell the bonds purchased with such fund and redeem the obligation.

History. Acts 1941, No. 113, §§ 1-3; A.S.A. 1947, §§ 13-1004 — 13-1006.

19-9-104. Bonds held five years.

After holding any government or state bond purchased by him or her for a period of five (5) years, the Treasurer of State shall liquidate the bond and place the proceeds to the credit of the General Revenue Fund

Account of the State Apportionment Fund, or remit them to the political subdivision of the state to which they belong, as the case may be.

History. Acts 1941, No. 113, § 4; A.S.A. 1947, § 13-1007.

19-9-105. Pay until barred.

Every bond issued by the state, or by any political subdivision thereof, shall be paid by the state or by the political subdivision unless it is barred by the statute of limitations.

History. Acts 1941, No. 113, § 5; A.S.A. 1947, § 13-1008.

SUBCHAPTER 2 — STATE OBLIGATIONS

SECTION.

19-9-201. Authority of State Board of Finance.

19-9-202. Authorized paying agents.

19-9-203. Registration.

SECTION.

19-9-204. Retirement of bonds before maturity.

19-9-205. Cancelled obligations.

Effective Dates. Acts 1955, No. 338, § 15: Apr. 1, 1955. Emergency clause provided: "It has been found and is hereby declared by the General Assembly that general revenues of the State are declining and that the investment provisions of this act will provide additional revenues

immediately needed for the efficient operation of the State Government. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force from and after April 1, 1955."

19-9-201. Authority of State Board of Finance.

The State Board of Finance is authorized to:

(1) Take such action as may be provided by law for the issuance of refunding bonds for outstanding obligations to the State of Arkansas;

(2) Issue replacement bonds, either typewritten, printed, or lithographed, for lost, mislaid, destroyed, or stolen bonds of the State of Arkansas in the manner and within the limitations provided by § 19-9-102;

(3) Take such action as may appear necessary or desirable to collect any funds which may have been in the hands of paying agents for a period of three (3) years or longer and to invest any funds so collected in the manner provided by §§ 19-9-103 — 19-9-105; and

(4) Take such other action, not inconsistent with law, as may appear necessary or desirable to:

(A) Retire the direct bonded debt of the State of Arkansas in an orderly manner;

(B) Safeguard state funds pledged for the payment of such obligations; and

(C) Maintain and improve the credit standing of the State of Arkansas.

History. Acts 1955, No. 338, § 11; 1965 (1st Ex. Sess.), No. 12, § 13; A.S.A. 1947, § 13-411.

19-9-202. Authorized paying agents.

(a) The agents of the state for payment of the maturing principal of, and interest on, its direct obligation bonds, irrespective of any other legislation on the subject, shall be for all obligations a bank located in this state, to be designated by the State Board of Finance.

(b) Fees of the paying agents shall be as follows:

(1) For payment of interest, one-fourth of one percent ($\frac{1}{4}$ of 1%) of the total amount paid; and

(2) For payment of principal of each maturity, the aggregate thereof to be calculated as follows, with each paying agent to receive its respective proportion based upon the amount paid by it: one-tenth of one percent ($\frac{1}{10}$ of 1%) on the first one hundred thousand dollars (\$100,000) paid, one-twentieth of one percent ($\frac{1}{20}$ of 1%) on the next nine hundred thousand dollars (\$900,000) paid, one-thirtieth of one percent ($\frac{1}{30}$ of 1%) on the next four million dollars (\$4,000,000) paid, and one-fortieth of one percent ($\frac{1}{40}$ of 1%) on all amounts paid in excess of five million dollars (\$5,000,000).

(c) In the event any agent so designated shall refuse to accept the paying agency or in the event any agent accepting this designation shall thereafter resign or fail to furnish service satisfactory to the board, the board shall name another commercial bank as successor thereto.

(d) Paying agents shall render monthly statements of account to, and in such form as shall be required by, the Treasurer of State. With those monthly statements, the paying agent shall transmit all paid and cancelled obligations.

History. Acts 1955, No. 338, § 9; A.S.A. 1947, § 13-409; Acts 1997, No. 296, § 1.

A.C.R.C. Notes. Formerly, the initial provisions of this section provided that the agents of the state for payment of the maturing principal of, and interest on, its direct obligation bonds, irrespective of any other legislation on the subject, shall be as follows:

(a) For State Highway Refunding Bonds, authorized and issued under the provisions of Act 4 (Appx. 3 to this title), approved January 28, 1941: The Chase National Bank of the City of New York; Halsey Stuart and Company, Incorporated,

Chicago, Illinois; Mercantile Trust Company, St. Louis, Missouri; a bank located in Memphis, Tennessee, to be designated by the State Board of Finance; and a bank located in the capital city of this state, to be designated by the board;

(b) For State Highway Construction Bonds, authorized and issued under the provisions of Act 5 (Appx. 5 of this title), approved January 20, 1949: a bank located in Memphis, Tennessee, to be designated by the board; and a bank located in the capital city of this state, to be designated by the board.

19-9-203. Registration.

The Treasurer of State is designated as the official registrar of all direct obligation bonds of this state. Upon the application of the holder of any such obligations, the Treasurer of State shall register them as to principal only or as to both principal and interest. Thereafter, upon similar application, he or she shall discharge such obligations from registration.

History. Acts 1955, No. 338, § 10; A.S.A. 1947, § 13-410.

19-9-204. Retirement of bonds before maturity.

(a) Whenever appropriations and funds are available, the State Board of Finance is authorized and empowered to purchase direct obligations of this state in advance of maturity for the purpose of retirement under the procedure set forth in this subchapter.

(b) All obligations purchased as prescribed, and the unmatured interest coupons attached thereto, shall be cancelled by perforation.

History. Acts 1955, No. 338, § 8; A.S.A. 1947, § 13-408.

19-9-205. Cancelled obligations.

The Treasurer of State shall classify and record all paid and cancelled state obligations and, from time to time as directed by the State Board of Finance, destroy these obligations by burning them to ashes after preparing for execution certificates of incineration, which shall set forth a detailed description thereof.

History. Acts 1955, No. 338, § 9; A.S.A. 1947, § 13-409.

SUBCHAPTER 3 — REFUNDING BONDS

SECTION.

- 19-9-301. Delivery and deposit in trust —
Definition.
19-9-302. Sale when old bonds cannot be
presented.
19-9-303. Private sale to United States.

SECTION.

- 19-9-304. Interest rate.
19-9-305. Conversion privilege.
19-9-306. Inclusion of redemption premi-
ums in principal.

Preambles. Acts 1961, No. 449 contained a preamble which read: "Whereas, many of the laws permitting the refunding of bonds issued by counties, school districts, improvement districts, and municipalities carry the restriction that the refunding bonds shall not bear a greater rate of interest than that borne by the

bonds to be refunded, but many of such bonds presently outstanding were issued at a time of unusually low interest rates so that they cannot now be refunded at the same rate they bear; and

"Whereas, frequently at the time of issuance of presently outstanding bonds the issuing authority pledged its entire avail-

able resources for their payment and now has no free resources to pledge for additional bonds, but if able to refund the outstanding bonds it could combine such refunding bonds with new bonds to secure funds for the needed improvements or facilities; and

"Whereas, the increase in urban and suburban population and in industry and commerce in many instances has created urgent needs for additional governmental facilities and services of all kinds; and

"Whereas, the increases in assessed valuation of taxable property, and the increased consumption and use of such governmental facilities and services, produce sufficient revenues to meet these needs if the additional revenues can be released; Now therefore ... "

Effective Dates. Acts 1939, No. 152, § 2: approved Feb. 28, 1939. Emergency clause provided: "Whereas, the State of Arkansas and various boards, commissions, other agencies and instrumentalities of the State of Arkansas have outstanding bonds which will default unless refunded in the immediate future; and whereas, there is a possibility that the opportunity to sell such bonds to the United States of America, or to some agency, corporation, or instrumentality thereof may soon terminate; and whereas, the United States of America, or any agency, corporation, or instrumentality thereof will not buy bonds of any kind at public sale; now, therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health and safety, shall be in force and effect from and after its passage."

Acts 1945, No. 12, § 3: approved Jan. 31, 1945. Emergency clause provided: "It has been found and it is hereby determined by the General Assembly that some of the political subdivisions of the State above named are paying interest rates on their outstanding bonds higher than those at which they might be refunded; that unprecedentedly low interest rates now prevail which have created a market advantageous to the issuance of refunding bonds; that the duration of said low interest rates is uncertain for the reason that Congress may shortly enact a statute taxing the interest upon future issues of such bonds which would render the refunding of the outstanding bonds impracticable, if

not impossible; that such political subdivisions should take advantage of the present favorable market and their failure to do so would result in great financial detriment to taxpayers; that under present laws refunding bonds cannot be delivered until the bonds they are to refund are available for payment and cancellation simultaneously with the delivery of the refunding bonds; that it often happens that some callable bonds and some bonds with fixed maturities are not presented for payment at the call date or maturity date respectively or within a reasonable time thereafter; that because of such uncertainty in the delivery date bond buyers usually will not contract for the purchase of the refunding bonds at advantageous interest rates; that for said reasons it is hereby declared necessary for the preservation of the public peace, health and safety that this act shall become effective without delay. An emergency therefore exists and this act shall take effect and be in force from and after its passage."

Acts 1961, No. 449, § 4: Mar. 15, 1961. Emergency clause provided: "That it is hereby ascertained and declared that there is a real and urgent need for many of the State's counties, school districts, improvement districts, and municipalities to issue additional bonds in order to meet the increasing needs for public services, an emergency is therefore declared to exist, and this act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval."

Acts 1967, No. 145, § 3: Feb. 24, 1967. Emergency clause provided: "It is hereby ascertained and declared that it is and will be in the best interest of many of issuing authorities to refund outstanding bonded indebtedness in order to accomplish a savings and in order to permit the issuance of additional bonds to meet the increasing needs for public services and that this act is necessary for issuing authorities to accomplish those public purposes. It is, therefore, declared that an emergency exists and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1967, No. 146, § 3: Feb. 24, 1967. Emergency clause provided: "It is hereby found and declared that certain outstand-

ing bond issues of issuing authorities are subject to redemption prior to maturity only upon the payment of redemption premiums; that uncertainty exists as to whether issuing authorities can include the required redemption premiums as part of the principal of the refunding bonds; that this uncertainty must be eliminated since the refunding cannot be accomplished without the payment of the required premiums; and that the purpose of this act is to expressly grant the authority to include the necessary redemption premiums in the principal amount of the refunding bonds so that issuing authorities can proceed with the issuance of refunding bonds when refunding is determined to be in the best interest of the issuing authorities. It is, therefore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace, health, safety and welfare shall be in force and take effect from and after its passage and approval."

Acts 1973, No. 502, § 3: Mar. 29, 1973. Emergency clause provided: "It is hereby ascertained and declared that there is an urgent necessity to clarify existing law

concerning the advance refunding of bonds of issuing authorities so as to expressly permit issuing authorities to have the benefit of income that can be earned from investments in direct obligations of the United States of America in connection with advance refunding. It is, therefore, declared that an emergency exists and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval."

Acts 1975, No. 222, § 3: became law without Governor's signature, Feb. 19, 1975. Emergency clause provided: "It is hereby ascertained and declared that there is an urgent necessity to broaden the existing authority of issuing authorities to permit issuing authorities more flexibility in taking advantage of improved bond market conditions to refinance existing indebtedness and realize interest savings thereby, as provided in this Act. It is, therefore, declared that an emergency exists and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval."

19-9-301. Delivery and deposit in trust — Definition.

(a) When refunding bonds are issued by the state, any county, municipality, school district, state-supported educational institution, improvement district of any kind, agency, or political subdivision, which may be called "issuing authorities", the bonds may either be sold or delivered in exchange for the outstanding obligations being refunded. If sold, the proceeds may be either applied to the payment of the outstanding obligations or deposited into trust for the retirement of the obligations, either at maturity or upon any authorized redemption date as specified in the ordinance, resolution, order, or other instrument authorizing the issuance of the refunding bonds.

(b) The bonds may be issued in the principal amount necessary to pay the principal of, interest on, redemption premiums, if any, trustee's and paying agent's fees, and charges in connection with the obligations being refunded to maturity or to the redemption date specified in the instrument authorizing the issuance of the refunding bonds, these items to be called "total debt service requirements of the obligations being refunded"; to pay expenses incidental thereto; and to pay the expenses of authorizing and issuing the refunding bonds.

(c)(1) The bonds may be delivered when moneys or investment securities or a combination thereof, sufficient to meet, as and when due,

the total debt service requirements of the obligations being refunded, have been irrevocably deposited into trust with a bank or trust company organized under the laws of the United States or any state thereof. This bank or trust company shall be qualified to receive trust funds pursuant to a trust agreement requiring the bank or trust company to apply the trust funds to the payment, as and when due, of total debt service requirements of the obligations being refunded. If the bank or trust company is not the paying agent for the obligations being refunded, the trust agreement shall require it to pay over trust moneys to the paying agent as and when required for the timely meeting of total debt service requirements of the obligations being refunded.

(2) "Investment securities" shall mean direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States, maturing and bearing interest at such times and in such amounts as, together with uninvested trust moneys, will make available sufficient moneys to meet, as and when due, total debt service requirements of the obligations being refunded. In determining the sufficiency of the trust deposit, there shall be considered the principal amount of such investment securities and the interest to be earned on them.

History. Acts 1967, No. 145, § 1; 1973, No. 502, § 1; 1975, No. 222, § 1; A.S.A. 1947, § 13-1105.

19-9-302. Sale when old bonds cannot be presented.

(a) Where refunding bonds are to be issued by any municipality, county, state-supported educational institution, or improvement district of any kind and the bonds to be refunded cannot be presented for payment and cancellation simultaneously with the payment and delivery of the refunding bonds, the refunding bonds may be delivered when the purchase money is deposited into trust. The purchase money may be deposited for the purpose of payment of the principal of and interest on the bonds to be refunded with any insured bank or trust company in the state which is otherwise fully qualified to receive trust funds if the bonds to be refunded have fixed maturity dates of not to exceed twelve (12) months from the date of the payment and delivery of the refunding bonds or if the bonds are redeemable before maturity and have been duly called for payment.

(b) If the bank or trust company is not the paying agent for the bonds to be refunded, the purchase money shall be paid over by it to the paying agent three (3) days before the maturity of the bonds or three (3) days before the date for which the bonds have been called for payment.

History. Acts 1945, No. 12, § 1; A.S.A. 1947, § 13-1102.

19-9-303. Private sale to United States.

Any refunding bonds authorized to be sold by the State of Arkansas or any agency or instrumentality of the state at public sale, notwithstanding the provision for public sale, may, nevertheless, be sold to the United States or any agency thereof at private sale without public advertisement if the bonds are sold at not less than par and at a rate of interest not greater than the rate borne by the bonds to be refunded.

History. Acts 1939, No. 152, § 1; A.S.A. 1947, § 13-1101.

19-9-304. Interest rate.

(a) Any county, school district, improvement district, or municipality may refund any bonds issued under any statutory or constitutional authority at any time outstanding by the issuance of bonds bearing a rate or rates of interest that the issuer shall deem to be just and fair, whether or not greater than the rate or rates of interest borne by the bonds being refunded.

(b) No bonds shall be refunded at a rate of interest greater than the maximum rate set by the statutes or constitutional provision under which they were originally authorized.

History. Acts 1961, No. 449, § 1; A.S.A. 1947, § 13-1103.

19-9-305. Conversion privilege.

The refunding bonds may be issued with the privilege of conversion to a lower rate or rates of interest if the issuer receives no less and pays no more than it would receive or pay if the bonds were not converted. The conversion shall be subject to the approval of the issuer.

History. Acts 1961, No. 449, § 2; A.S.A. 1947, § 13-1104.

19-9-306. Inclusion of redemption premiums in principal.

The State of Arkansas, any agency of the state, any county, any municipality, any school district, any improvement district of any kind, or any other political subdivision of the State of Arkansas, which may be called "issuing authorities", is authorized to include in the principal of refunding bonds the amount of any redemption premiums required to be paid to accomplish the redemption of the bonds being refunded.

History. Acts 1967, No. 146, § 1; A.S.A. 1947, § 13-1106.

A.C.R.C. Notes. Acts 1967, No. 146, § 2, provided that the act would be cumu-

lative to any other laws authorizing or pertaining to the issuance of refunding bonds by issuing authorities.

SUBCHAPTER 4 — REGISTERED PUBLIC OBLIGATIONS ACT OF ARKANSAS

SECTION.

- 19-9-401. Title.
- 19-9-402. Purpose.
- 19-9-403. Definitions.
- 19-9-404. Applicability.
- 19-9-405. Construction.
- 19-9-406. System of registration.
- 19-9-407. Signatures required.
- 19-9-408. Signature of predecessor in office.

SECTION.

- 19-9-409. Seal.
- 19-9-410. Appointment of agents by issuer.
- 19-9-411. Payment of costs.
- 19-9-412. Reciprocal recognition for obligations.
- 19-9-413. Registration records.
- 19-9-414. Exemption of interest from taxation.

Effective Dates. Acts 1983, No. 786, § 18: Mar. 24, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that under current federal tax law, Section 103 of the Code will deny exemption from federal income tax on any obligation not issued in registered form, many laws of the State of Arkansas relating to the issuance of obligations do not adequately provide the authorization for compliance and its inci-

dents in an adequate manner; and to enable all issuers within the state to comply, so as to prevent substantial additional financing costs or delays in financing, it is necessary that this Act take effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of public peace, health and safety shall be in full force and effect from and after its passage and approval.”

19-9-401. Title.

This subchapter may be cited as the “Registered Public Obligations Act of Arkansas”.

History. Acts 1983, No. 786, § 1; A.S.A. 1947, § 13-2801.

19-9-402. Purpose.

(a) The Internal Revenue Code provides that interest with respect to certain obligations may not be exempt from federal income taxation unless the obligations are in registered form. It is therefore a matter of state concern that public entities be authorized to provide for the issuance of obligations in such form. It is a purpose of this subchapter to empower all public entities to establish and maintain a system pursuant to which obligations may be issued in registered form within the meaning of the applicable provisions of the Internal Revenue Code.

(b) Obligations have traditionally been issued in bearer rather than in registered form, and a change from bearer to registered form may affect the relationships, rights, and duties of issuers of and the persons that deal with obligations and, by such effect, the costs of issuing obligations. Such effects will impact the various issuers and varieties of obligations differently depending upon their legal and financial characteristics, their markets, and their adaptability to recent and prospective technological and organizational developments. It is therefore a

matter of state concern that public entities be provided flexibility in the development of such systems and control over system incidents so as to accommodate the different impacts. It is a purpose of this subchapter to empower the establishment, maintenance, and amendment, from time to time, of differing systems of registration of obligations so as to accommodate the differing impacts upon issuers and varieties of obligations. It is further a purpose of this subchapter to authorize systems that will facilitate the prompt and accurate transfer of registered public obligations and develop practices with regard to the registration and transfer of registered public obligations.

History. Acts 1983, No. 786, § 3; A.S.A. Code, referred to in this section, is codified as 26 U.S.C. § 1 et seq.

U.S. Code. The Internal Revenue

19-9-403. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Authorized officer” means any individual required or permitted, alone or with others, by any provision of law or by the issuing public entity, to execute, on behalf of the public entity, a certificated registered public obligation or a writing relating to an uncertificated registered public obligation;

(2) “Certificated registered public obligation” means a registered public obligation which is represented by an instrument;

(3) “Code” means the Internal Revenue Code of 1954, as amended;

(4) “Facsimile seal” means the reproduction by engraving, imprinting, stamping, or by other means of the seal of the issuer, official, or official body;

(5) “Facsimile signature” means the reproduction by engraving, imprinting, stamping, or by other means of a manual signature;

(6) “Financial intermediary” means a bank, broker, clearing corporation, or other person, or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers, when so acting;

(7) “Issuer” means a public entity which issues an obligation;

(8) “Obligation” means an agreement of a public entity to pay principal and any interest thereon, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement, or otherwise and includes a share, participation, or other interest in any such agreement;

(9) “Official actions” means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation;

(10) “Official or official body” means the officer or board that is empowered under the laws of one (1) or more states, including this state, to provide for original issuance of an obligation of the issuer by defining the obligation and its terms, conditions, and other incidents, the successor of any such official or official body, and such other person

or group of persons as shall be assigned duties of an official or official body with respect to a registered public obligation under applicable law from time to time;

(11) “Public entity” means any entity, department, or agency which is empowered under the laws of one (1) or more states, territories, possessions of the United States, or the District of Columbia, including this state, to issue obligations, any interest with respect to which, under any provision of law, may be provided an exemption from the income tax referred to in the code. The term “public entity” may thus include, without limitation, this state, an entity deriving powers from and acting pursuant to the Arkansas Constitution or a special legislative act, a political subdivision, a municipal corporation, a state university or college, a school or other special district, a joint agreement entity, a public authority, a public facilities board, a nonprofit corporation, and other organizations;

(12) “Registered public obligation” means an obligation issued by a public entity pursuant to a system of registration;

(13) “State” means the State of Arkansas;

(14) “System of registration” and its variants means a plan that provides:

(A) With respect to a certificated registered public obligation, that:

(i) The certificated registered public obligation specifies a person entitled to the registered public obligation and the rights it represents; and

(ii) Transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(B) With respect to an uncertificated registered public obligation, that:

(i) Books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced thereby; and

(ii) Transfer of the uncertificated registered public obligation and the rights evidenced thereby be registered upon such book; and

(15) “Uncertificated registered public obligation” means a registered public obligation which is not represented by an instrument.

History. Acts 1983, No. 786, § 2; A.S.A. 1947, § 13-2802.

of 1954, referred to in this section, is codified as 26 U.S.C. § 1 et seq.

U.S. Code. The Internal Revenue Code

19-9-404. Applicability.

(a) Unless, at any time prior to or at original issuance of a registered public obligation, the official or official body of the issuer determines otherwise, this subchapter shall be applicable to such registered public obligation, notwithstanding any provision of law to the contrary. When this subchapter is applicable, no contrary provision shall apply.

(b) Nothing in this subchapter limits or prevents the issuance of obligations in any other form or manner authorized by law.

(c) Unless determined otherwise pursuant to subsection (a) of this section, the provisions of this subchapter shall be applicable with respect to obligations which have been approved by vote, referendum, or hearing which authorizes or permits the authorization of obligations in bearer and registered form or in bearer form only. These obligations need not be resubmitted for a further vote, referendum, or hearing for the purpose of authorizing or permitting the authorization of registered public obligations pursuant to this subchapter.

History. Acts 1983, No. 786, § 12;
A.S.A. 1947, § 13-2812.

19-9-405. Construction.

(a) This subchapter shall be liberally construed to accomplish the intent and purposes hereof and shall be the sole authority required for the accomplishment of such purposes.

(b) This subchapter shall be construed in conjunction with the Uniform Commercial Code, § 4-1-101 et seq., and the principles of contract law relative to the registration and transfer of obligations.

History. Acts 1983, No. 786, §§ 13, 16;
A.S.A. 1947, §§ 13-2813, 13-2815.

19-9-406. System of registration.

(a)(1) Each issuer is authorized to establish and maintain a system of registration with respect to each obligation which it issues. The system may either be:

(A) A system pursuant to which only certificated registered public obligations are issued;

(B) A system pursuant to which only uncertificated registered public obligations are issued; or

(C) A system pursuant to which both certificated and uncertificated registered public obligations are issued.

(2) The issuer may amend, discontinue, and reinstitute any system of registration, from time to time, subject to covenants.

(b) The system shall be established, amended, discontinued, or reinstituted for the issuer by, and shall be maintained for the issuer as provided by, the official or official body.

(c) The system shall be described in the registered public obligation or in the official actions which provide for original issuance of the registered public obligation and in subsequent official actions providing for amendments and other matters from time to time. Such description may be by reference to a program of the issuer which is established by the official or official body.

(d) The system shall define the methods by which transfer of the registered public obligation shall be effective with respect to the issuer

and by which payment of principal and any interest shall be made. The system may permit the issuance of registered public obligations in any denomination to represent several registered public obligations of smaller denominations. The system may also provide for the form of any certificated registered public obligation or of any writing relating to an uncertificated registered public obligation, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to holders or owners of obligations, and for accounting, cancelled certificate destruction, registration and release of security interests, and other incidental matters. Unless the issuer otherwise provides, the record date for interest payable on the first or fifteenth day of a month shall be the fifteenth day or the last business day of the preceding month, respectively, and for interest payable on other than the first or fifteenth day of a month, shall be the fifteenth calendar day before the interest payment date.

(e) Under a system pursuant to which both certificated and uncertificated registered public obligations are issued, both types of registered public obligations may be regularly issued, or one (1) type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners. Provision may be made for registration and release of security interest in registered public obligations.

(f) The system may include covenants of the issuer as to amendments, discontinuances, and reinstitutions of the system and the effect of such on the exemption of interest from the income tax provided for by the code.

(g) Whenever an issuer shall issue an uncertificated registered public obligation, the system of registration may provide that a true copy of the official actions of the issuer relating to such uncertificated registered public obligations be maintained by the issuer or by the person, if any, maintaining such system on behalf of the issuer, so long as the uncertificated registered public obligation remains outstanding and unpaid. A copy of such official actions, verified to be such by an authorized officer, shall be admissible before any court of record, administrative body, or arbitration panel without further authentication.

(h) Nothing in this subchapter shall preclude a conversion from one of the forms of registered public obligations provided for by this subchapter to a form of obligation not provided for by this subchapter if interest on the obligation so converted will continue to be exempt from the income tax provided for by the code.

(i) The rights provided by other laws with respect to obligations in forms not provided for by this subchapter shall, to the extent not inconsistent with this subchapter, apply with respect to registered public obligations issued in forms authorized by this subchapter.

History. Acts 1983, No. 786, § 4; A.S.A. 1947, § 13-2804.

19-9-407. Signatures required.

(a) A certificated registered public obligation shall be executed by the issuer by the manual or facsimile signatures of authorized officers. Any signature of an authorized officer may be attested by the manual or facsimile signature of another authorized officer.

(b) In addition to the signatures referred to in subsection (a) of this section, any certificated registered public obligation or any writing relating to an uncertificated registered public obligation may include a certificate signed by the manual or facsimile signature of an authenticating agent, registrar, transfer agent, or the like.

(c) At least one (1) signature of an authorized officer or other person required or permitted to be placed on a certificated registered public obligation shall be a manual signature.

History. Acts 1983, No. 786, § 5; A.S.A. 1947, § 13-2805.

19-9-408. Signature of predecessor in office.

(a) Any certificated registered public obligation signed by the authorized officers at the time of the signing thereof shall remain valid and binding, notwithstanding that before the issuance thereof any or all of the officers shall have ceased to fill their respective offices.

(b)(1) Any authorized officer empowered to sign any certificated registered public obligation may adopt as and for the signature of such officer the signature of a predecessor in office in the event that such predecessor's signature appears on such certificated registered public obligation.

(2) An authorized officer incurs no liability by adoption of a predecessor's signature that would not be incurred by such authorized officer if the signature were that of such authorized officer.

History. Acts 1983, No. 786, § 6; A.S.A. 1947, § 13-2806.

19-9-409. Seal.

When a seal is required or permitted in the execution of any certificated registered public obligation, an authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

History. Acts 1983, No. 786, § 7; A.S.A. 1947, § 13-2807.

19-9-410. Appointment of agents by issuer.

(a) An issuer may appoint for such term as may be agreed, including for so long as a registered public obligation may be outstanding, corporate or other authenticating agents, transfer agents, registrars, and paying or other agents. The issuer may also specify the terms of their appointment, including their rights, their compensation and duties, limits upon their liabilities, and provision for their payment of liquidated damages in the event of breach of certain of the duties imposed. These liquidated damages may be made payable to the issuer, the owner, or a financial intermediary. None of such agents need have an office or do business within this state.

(b) An issuer may agree with custodian banks and financial intermediaries, and nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the transfer of pledge of registered public obligations. Any such custodian banks and financial intermediaries, and nominees, may, if qualified and acting as fiduciaries, also serve as authenticating agents, transfer agents, registrars, or paying or other agents of the issuer with respect to the same issue of registered public obligations.

(c) Nothing shall preclude the issuer from itself performing, either alone or jointly with other issuers, any transfer, registration, authentication, payment, or other function described in this section.

History. Acts 1983, No. 786, § 8; A.S.A. 1947, § 13-2808.

19-9-411. Payment of costs.

(a) An issuer, prior to or at original issuance of registered public obligations, may provide as a part of a system of registration that the transferor or transferee of the registered public obligations pay all or a designated part of the costs of the system as a condition precedent to transfer, that costs be paid out of proceeds of the registered public obligations, or that both methods be used. The portion of the costs of the system not provided to be paid for by the transferor or transferee or out of proceeds shall be the liability of the issuer.

(b) The issuer may, as a part of a system of registration, provide for reimbursement or for satisfaction of its liability by payment by others. The issuer may:

(1) Enter into agreements with others respecting such reimbursement or payment;

(2) Establish fees and charges pursuant to such agreements or otherwise; and

(3) Provide that the amount or estimated amount of such fees and charges shall be reimbursed or paid from the same sources and by means of the same collection and enforcement procedures and with the same priority and effect as with respect to the obligations.

History. Acts 1983, No. 786, § 9; A.S.A. 1947, § 13-2809.

19-9-412. Reciprocal recognition for obligations.

Obligations issued by public entities under the laws of one (1) or more states, territories, possessions, or the District of Columbia, which are in registered form, whether or not represented by an instrument, and which, except for their form, satisfy the requirements with regard to security for deposits of moneys of public agencies prescribed pursuant to any law of this state, shall be deemed to satisfy all such requirements, even though they are in registered form, if a security interest in such obligations is perfected on behalf of the public agencies whose moneys are so deposited.

History. Acts 1983, No. 786, § 10; A.S.A. 1947, § 13-2810.

19-9-413. Registration records.

(a) Records, with regard to the ownership of or security interest in registered public obligations, are not subject to inspection or copying under any law of this state relating to the right of the public to inspect or copy public records, notwithstanding any law to the contrary.

(b) Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

History. Acts 1983, No. 786, § 11; A.S.A. 1947, § 13-2811.

19-9-414. Exemption of interest from taxation.

The state covenants with the owners of any registered public obligations that it will not amend or repeal this subchapter if the effect may be to impair the exemption from income taxation of interest on registered public obligations.

History. Acts 1983, No. 786, § 14; A.S.A. 1947, § 13-2814.

SUBCHAPTER 5 — REVENUE BOND REPORTING ACT

SECTION.

19-9-501. Title.

19-9-502. Annual report.

Effective Dates. Acts 1987, No. 646, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the clarification of certain fiscal transactions of the State is needed in

order to more accurately reflect the condition of the State's assets at all times and to maintain the fiscal integrity of the State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after July 1, 1987.”

19-9-501. Title.

This subchapter may be known and cited as the “Revenue Bond Reporting Act”.

History. Acts 1985, No. 222, § 1; A.S.A. 1947, § 13-444.

19-9-502. Annual report.

(a) All state and local agencies, boards, commissions, institutions of higher education, and authorities authorized by the state and cities and counties shall annually file a report with the State Board of Finance, on or before October 1, reflecting any and all revenue bonds which have been issued and have not been liquidated as of the preceding July 1 by such governmental units.

- (b) The report shall contain:
- (1) The purpose for which the revenue bonds were issued;
 - (2) The total dollar amount issued;
 - (3) The percentage interest rate payable under the revenue bonds;
 - (4) The total dollar amount outstanding;
 - (5) The repayment schedule; and
 - (6) The source, type, and amount of pledged revenues for the bonds.
- (c) The Secretary of the State Board of Finance shall compile a summary report of all revenue bonds from information provided under this section and present the summary report to the Legislative Council as soon as practicable after each October 1.

History. Acts 1985, No. 222, § 2; A.S.A. 1947, § 13-445; Acts 1987, No. 646, § 4.

SUBCHAPTER 6 — REVENUE BOND ACT OF 1987

- SECTION.
- 19-9-601. Title.
 - 19-9-602. Legislative determination.
 - 19-9-603. Legislative intent.
 - 19-9-604. Definitions.
 - 19-9-605. Construction.

- SECTION.
- 19-9-606. Proclamation, order, etc., authorizing issuance of bonds.
 - 19-9-607. Hearing.

A.C.R.C. Notes. Acts 1987, No. 852, § 6, provided: “Notwithstanding any other evidence of legislative intent, it is hereby declared that the provisions of this Act are severable and if any provision of this Act or the application thereof to any

person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.”

Effective Dates. Acts 1987 (1st Ex. Sess.), No. 36, § 4: July 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the issuance of revenue bonds by regional water distribution districts has been unduly restricted by Act 852 of 1987 and the amendments thereto made hereby are intended to enable such districts to issue their revenue bonds to finance water improvements which are necessary for the inhabitants of the State to have sufficient availability of water resources. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall take effect and be in force from July 19, 1987 which is the effective date of Act 852 of 1987."

Acts 1991, No. 210, § 7: Feb. 21, 1991. Emergency clause provided: "It is hereby found and determined that there is an immediate and urgent need to facilitate the refunding of revenue bonds so that governmental units can reduce debt service costs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 213, § 6: Feb. 21, 1991. Emergency clause provided: "It has been found and it is hereby declared that present law, requiring publication of notice of fourteen (14) days prior to the authorization of revenue bonds results, in some instances, in hardship and, in the case of changing interest rates, can result in economic loss, particularly in municipalities in which there is not located a daily newspaper; that the effect of the present law is greatly in the public interest; and that present law can be amended as set forth herein without prejudice to its effect. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in

full force and effect from and after its passage and approval."

Acts 1997, No. 1245, § 6: Apr. 9, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act clarifies the definition of 'governing body' as used in the Revenue Bond Act of 1987 and that this act is immediately necessary to clarify the law and to avoid undue hardship and potential economic loss to governing bodies. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1553, § 3: Apr. 5, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the ability of local entities to issue bonds is an important component to the state economy; that laws concerning local bonds issued by regional wastewater districts and regional solid waste management districts are in need of immediate clarification in order to allow those districts to properly issue bonds for the benefit of the district and the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—
Bonds, 10 U. Ark. Little Rock L.J. 545.

19-9-601. Title.

This subchapter shall be referred to and may be cited as the “Revenue Bond Act of 1987”.

History. Acts 1987, No. 852, § 1.

19-9-602. Legislative determination.

The people of the State of Arkansas, by the adoption of Arkansas Constitution, Amendment 65, have expressed their intention to provide governmental units expanded power and authority with respect to the creation of bonded indebtedness for capital improvements of a public nature, facilities for the securing and developing of industry or agriculture, and other purposes as defined and prescribed by the General Assembly.

History. Acts 1987, No. 852, § 2.

19-9-603. Legislative intent.

It is the specific intent of this subchapter that the provisions hereof are procedural only and are supplemental to other constitutional or statutory provisions now existing or hereafter adopted which may authorize the issuance of revenue bonds for the financing of capital improvements. Nothing contained in this subchapter shall be deemed to be a restriction or limitation upon alternative means of financing previously available or hereafter made available to municipalities or counties for the purposes set forth in this subchapter.

History. Acts 1987, No. 852, § 7.

19-9-604. Definitions.

As used in this subchapter:

(1) “Bonds” or “revenue bonds” means bonds issued pursuant to an act of the General Assembly under the authority of the Arkansas Constitution, Amendment 65, and means all bonds or other obligations, the repayment of which are secured by rents, loan payments, user fees, charges, or other revenues derived from any special fund or source other than assessments for local improvements and taxes;

(2) “Capital improvements of a public nature” or “capital improvements” means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means:

(A) Any physical public betterment or improvement or any preliminary plans, studies, or surveys relative thereto;

(B) Lands or rights in land, including, without limitations, leases, air rights, easements, rights-of-way, or licenses; and

(C) Any furnishings, machinery, vehicles, apparatus, or equipment for any public betterment or improvement, which shall include, without limiting the generality of the foregoing, the following:

(i) Any and all facilities for state agencies, city or town halls, courthouses and other administrative, executive, or other public offices;

(ii) Court facilities;

(iii) Jails;

(iv) Firefighting facilities and apparatus;

(v) Public health facilities and apparatus;

(vi) Hospitals, nursing homes, and similar extended care facilities;

(vii) Residential housing for low and moderate income, elderly persons or individuals with disabilities and families;

(viii) Parking garages or other facilities;

(ix) Educational and training facilities for public employees;

(x) Auditoriums, stadiums, convention halls, and similar public meeting or entertainment facilities;

(xi) Ambulance and other emergency medical service facilities;

(xii) Civil defense facilities;

(xiii) Air and water pollution control facilities;

(xiv) Drainage and flood control facilities;

(xv) Storm sewers;

(xvi) Arts and crafts centers;

(xvii) Museums;

(xviii) Libraries;

(xix) Public parks, playgrounds, or other public open space;

(xx) Marinas;

(xxi) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;

(xxii) Tourist information and assistance centers;

(xxiii) Historical, cultural, natural, or folklore sites;

(xxiv) Fair and exhibition facilities;

(xxv) Streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts;

(xxvi) Airports, passenger or freight terminals, hangars, and related facilities;

(xxvii) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;

(xxviii) Slack water harbors, water resource facilities, waterfront development facilities, and navigation facilities;

(xxix) Public transportation facilities;

(xxx) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;

(xxxi) Sewage collection systems and treatment plants;

(xxxii) Maintenance and storage buildings and facilities;

(xxxiii) Police and sheriff stations, apparatus, and training facilities;

- (xxxiv) Incinerators;
 - (xxxv) Garbage and solid waste disposal, compacting, and recycling facilities of every kind;
 - (xxxvi) Gas and electric generation, transmission, and distribution systems, including, without limiting the generality of the foregoing, hydroelectric generating facilities, dams, powerhouses, and related facilities; and
 - (xxxvii) Social and rehabilitative facilities;
- (3) “Governing body” means:
- (A) With respect to any governmental unit defined in subdivision (4)(A) of this section, the Governor;
 - (B) With respect to any governmental unit defined in subdivision (4)(B) of this section, the:
 - (i) County court of a county;
 - (ii) Board of directors of a regional water distribution district, regional wastewater district, or regional solid waste management district; or
 - (iii) Council, board of directors, board of commissioners, or similar elected body of a city or town; and
 - (C) With respect to any authority created pursuant to the Regional Airport Act, § 14-362-101 et seq. between any two (2) or more political subdivisions of the State of Arkansas, the Governor, the county court of a county participating in the agreement, or the council, board of directors, board of commissioners, or similar elected body of a city or town participating in the agreement;
- (4) “Governmental unit” means:
- (A) The State of Arkansas or any agency or other instrumentality of the state other than an institution of higher education; and
 - (B) Any county, municipality, regional water distribution district, regional wastewater district, regional solid waste management district, or other political subdivision of the State of Arkansas, or any agency or instrumentality of a political subdivision of the State of Arkansas; and
- (5) “Industrial enterprise” means and includes facilities for manufacturing, producing, processing, assembling, repairing, extracting, warehousing, distributing, communications, computer services, transportation, corporate and management offices, and services provided in connection with any of the foregoing, in isolation or in any combination, that involve the creation of new or additional employment or the retention of existing employment, and industrial parks. However, a shopping center, retail store, shop, or other similar undertaking which is solely or predominantly of a commercial retail nature shall not be an industrial enterprise for the purposes of this subchapter.

History. Acts 1987, No. 852, § 3; 1987 (1st Ex. Sess.), No. 36, § 1; 1997, No. 1245, § 2; 2005, No. 1553, § 1.

19-9-605. Construction.

This subchapter shall be construed liberally to effectuate the legislative intent and the purposes of this subchapter as complete and independent authority for the performance of each and every act and thing authorized in this subchapter. All powers granted in this subchapter shall be broadly interpreted to effectuate that intent and those purposes and not as a limitation of powers.

History. Acts 1987, No. 852, § 8.

19-9-606. Proclamation, order, etc., authorizing issuance of bonds.

(a) Whenever a governmental unit shall determine the need to issue revenue bonds for capital improvements of a public nature or industrial enterprise, the governing body shall authorize the issuance of those bonds by proclamation, order, ordinance, or resolution clearly stating the principal amount of and the purpose or purposes for which the bonds are to be issued.

(b) Only upon the proclamation, order, ordinance, or resolution of the governing body shall the governmental unit be authorized to issue such bonds, provided that no proclamation, order, ordinance, or resolution shall be required for the issuance of refunding bonds, including refunding bonds where the principal amount of the new bonds to be issued exceeds the outstanding principal amount of the prior bonds or notes to be refunded.

History. Acts 1987, No. 852, § 4; 1987 (1st Ex. Sess.), No. 36, § 2; 1991, No. 210, § 1.

A.C.R.C. Notes. Acts 1991, No. 210, § 2, provided: "Any provision of law, whether special or general, in conflict with this Act is expressly superseded by this Act to the extent of such conflict. This Act is supplemental to all other provisions of

state law governing the issuance of bonds and, except as otherwise provided in this Act, the provisions of state law governing the issuance of bonds continue to apply."

Acts 1991, No. 210, § 3, provided: "The provisions of this Act shall be liberally construed in order to effectively carry out the purposes of this Act."

19-9-607. Hearing.

(a) No proclamation, order, or ordinance prescribed by § 19-9-606 shall be entered by a governing body until the governing body, the governmental unit, or the delegate of either shall have conducted a public hearing:

(1) In the case of a regional water distribution district, regional wastewater district, or regional solid waste management district issuing bonds, in the county seat of the county that has the greatest amount of territory within the district;

(2) In the case of a city or county issuing bonds, within the city or county; or

(3) In the locality to be affected by the issuance of the bonds if subdivisions (a)(1) and (2) of this section are not applicable.

(b) At least ten (10) days before the date set for the public hearing, notice of the hearing shall be published one (1) time in a newspaper of general circulation:

- (1) In the locality to be affected; or
- (2) In the case of a regional water distribution district, regional wastewater district, or regional solid waste management district, in a newspaper of general circulation in each county in which land lies within the boundaries of the district.

- (c) The notice shall:
- (1) Contain a general description of the purpose or purposes for which the bonds are to be issued;
- (2) Contain the maximum principal amount of the bonds; and
- (3) State the date, time, and place of the public hearing.

History. Acts 1987, No. 852, § 5; 1987 § 2, provided: “This Act shall apply to (1st Ex. Sess.), No. 36, § 3; 1991, No. 213, revenue bonds issued after February 28, § 1; 2005, No. 1553, § 2. 1991.”

A.C.R.C. Notes. Acts 1991, No. 213,

SUBCHAPTER 7 — TAXABLE BOND ACT OF 1989

SECTION.	SECTION.
19-9-701. Title.	19-9-705. Construction.
19-9-702. Legislative findings.	19-9-706. Issuance of bonds authorized.
19-9-703. Definitions.	19-9-707. Ordinance, resolution, inden-
19-9-704. Subchapter supplemental —	ture, etc.
Effect on other state laws	19-9-708. Sale.
or on previously issued	19-9-709. Proceeds — Use.
bonds.	19-9-710. Refunding bonds.

Effective Dates. Acts 1989, No. 632, § 13: Mar. 17, 1989. Emergency clause provided: “It is hereby found and declared that there is an immediate and urgent need for providing more readily available financing for governmental units of the State of Arkansas in order that they may carry out their responsibilities previously established by the General Assembly; and that this need can be remedied or alleviated through the adoption of this Act and

the authorization of the issuance of taxable bonds for public purposes as provided herein. This Act is immediately necessary in order that such financings can be accomplished and the resulting public benefits realized. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from after its adoption.”

19-9-701. Title.

This subchapter shall be referred to as, and may be cited as, the “Taxable Bond Act of 1989”.

History. Acts 1989, No. 632, § 1.

19-9-702. Legislative findings.

The General Assembly hereby finds and declares:

(1) The United States Supreme Court, in the case of *South Carolina v. Baker*, decided April 20, 1988, 485 U.S. 505, held that no barrier exists under the United States Constitution to the imposition of federal income taxation on interest received by holders of bonds of governmental units. Such exemption from federal income taxation has been a desirable feature of such bonds, operating to reduce interest expense to governmental units and enhancing the marketability of the bonds;

(2) The continued ability of governmental units to provide for the financing of public improvements and other projects and programs which serve important public purposes by the issuance of bonds is essential for the health, welfare, and economic well-being of the people of the State of Arkansas;

(3) By the adoption of the Internal Revenue Code of 1986, as amended, the United States Congress has substantially limited the purposes for which bonds may be issued with interest exempt from federal income taxation and imposed other restrictive provisions as a condition of such exemption. Additionally, under the authority of *South Carolina v. Baker*, the United States Congress may be expected to enact other laws and effect changes in federal tax policy to eliminate or further reduce the exemption of interest on bonds of governmental units from federal income taxation, with the result that, to provide financing for public purposes, governmental units may now find it in their best interests to issue bonds the interest on which is not exempt from federal income taxation;

(4) Under the Arkansas Constitution and existing laws of this state, governmental units have had, and continue to have, the power to issue bonds without respect to whether the interest thereon is subject to federal income taxation; but many statutes applicable to governmental units lack effective, modern procedures under which the structure of a taxable financing may comply with current market practices, obtain the lowest effective borrowing cost, or provide terms most suitable to the governmental unit, the project, or the financing program; and

(5) The purposes sought to be achieved by this subchapter are to provide governmental units with all means necessary to obtain financing for public purposes under the changing circumstances related to future tax policy of the federal government and to supplement and complement the provisions of existing and future laws authorizing the issuance of bonds, to the end that governmental units may provide for the health, safety, and welfare of the people by the issuance of bonds under terms and conditions necessary under the then-existing conditions.

History. Acts 1989, No. 632, § 2.

U.S. Code. The Internal Revenue Code

of 1986, referred to in this section, is codified as 26 U.S.C. § 1 et seq.

19-9-703. Definitions.

As used in this subchapter, unless the content otherwise requires:

- (1) “Act” means this subchapter.
- (2) “Bonds” means any bonds, issued pursuant to the Arkansas Constitution and pursuant to an act of the General Assembly heretofore or hereafter enacted, and means all debentures, notes, warrants, tax anticipation notes, bond anticipation notes, commercial paper, or other evidence of indebtedness or leases, installment purchase contracts, or other agreements or certificates of participation therein issued by or on behalf of a governmental unit, secured by revenues from any special fund or source or assessments for local improvements and taxes;
- (3) “Foreign currency” means currency, euros, or money other than the legal tender of the United States;
- (4) “Governmental unit” means the State of Arkansas, any department, board, commission, or other agency or instrumentality of the state, or any county, municipality, school district, regional water distribution district, improvement district, public trust, or other political subdivision of the state, heretofore or hereafter created, or any board, commission, authority, or other public agency or instrumentality of a governmental unit which is now or hereafter authorized by law to issue bonds. Nothing herein shall be deemed to give any department, board, commission, or other agency of the state any additional authority to issue bonds or take any action independently and without acting by or through the State Board of Finance if the participation of the State Board of Finance is otherwise required by the law under authority of which the bonds are issued;
- (5) “State” means the State of Arkansas; and
- (6) “Taxable bonds” means bonds the interest on which is not, in any manner, exempt from federal income taxation or excludable from gross income for federal income tax purposes.

History. Acts 1989, No. 632, § 3.

19-9-704. Subchapter supplemental — Effect on other state laws or on previously issued bonds.

(a) This subchapter is supplemental to all other provisions of state law governing the issuance of bonds by any governmental unit and, except as otherwise provided in this subchapter, the provisions of state law governing the issuance of bonds by any governmental unit shall continue to apply to the issuance by such governmental unit of taxable bonds.

(b) Nothing herein shall be deemed to broaden or otherwise alter any provisions of state law as they relate to the issuance of the bonds the interest on which is, in some manner, exempt or excludable from federal income taxation.

(c) The reference herein to law providing authority for issuance of bonds shall mean laws now in effect and as hereafter enacted or amended by the General Assembly.

(d) Nothing contained herein shall be construed to impugn the validity of any taxable bonds heretofore issued.

History. Acts 1989, No. 632, § 9.

19-9-705. Construction.

The provisions of this subchapter shall be liberally construed in order to effectively carry out the purposes of this subchapter.

History. Acts 1989, No. 632, § 10.

19-9-706. Issuance of bonds authorized.

A governmental unit is hereby authorized to issue taxable bonds for any purpose permitted by the law heretofore or hereafter enacted under authority of which such taxable bonds are issued, whether such purposes are set forth in each law by specific category or by a general authorization to accomplish public purposes.

History. Acts 1989, No. 632, § 6.

19-9-707. Ordinance, resolution, indenture, etc.

The ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of taxable bonds may provide for any of the following:

(1) The bonds shall be in such denominations, in such form, either bearer or registered, and payable at such place or places, either within or without the United States, at such time or times, as, in each case, the governmental unit shall determine, subject to any limitations on the maturity of bonds set forth in the law under authority of which the bonds are issued;

(2) The bonds shall be payable in legal tender of the United States, in a foreign currency, in commodities, or in precious metals, as the governmental unit shall determine;

(3) The governmental unit may appoint, in connection with the bond issue, a cotrustee located outside of the boundaries of the United States or its territories or possessions so long as it also shall appoint a trustee otherwise meeting the requirements of the statutes under authority of which the bonds are issued. The governmental unit may appoint, in connection with the bond issue, a paying agent or a copaying agent located outside the boundaries of the United States or its territories or possessions;

(4) In connection with, or incidental to, the sale and issuance of bonds, the governmental unit may enter into any contracts which it determines to be necessary or appropriate to achieve a desirable effective interest rate in connection with the bonds by means of, but not limited to, contracts commonly known as investment contracts, funding agreements, interest rate swap agreements, currency swap agreements, forward payment conversion agreements, futures, or contracts

providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, options, puts or calls, whether or not used to hedge payment, rate, spread, or similar exposure. Such contracts or arrangements may also be entered into by governmental units in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor. Such contracts and arrangements shall be made upon the terms and conditions established by the governmental unit, after giving due consideration for the credit worthiness of the counterparties, where applicable, including any rating by a nationally recognized rating service or any other criteria as may be appropriate;

(5) In connection with, or incidental to, the sale and issuance of the bonds, or entering into any of the contracts or arrangements referred to in subdivision (4) of this section, the governmental unit may enter into such credit enhancement or liquidity agreements, with such payment, interest rate, security, default, remedy, and other terms and conditions as the governmental unit shall determine; and

(6) Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit, proceeds of the bonds and any moneys set aside or pledged to secure payment of the principal of, premium, if any, and interest on the bonds, or any of the contracts entered into pursuant to subdivision (4) of this section, may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of the bonds.

History. Acts 1989, No. 632, § 4.

19-9-708. Sale.

The bonds may be sold at public or private sale. If the governing unit shall determine that a negotiated sale of the taxable bonds is in the best interest of the governmental unit, the governmental unit may negotiate for the sale of the taxable bonds.

History. Acts 1989, No. 632, § 5.

19-9-709. Proceeds — Use.

(a) The proceeds of an issue of taxable bonds and the investment earnings thereon shall be used, in the manner, and to the extent specified in the ordinance or resolution providing for the issuance of the bonds, by the governmental unit issuing the bonds for a purpose specified for the issuance of bonds in the law under authority of which the bonds are issued.

(b) Notwithstanding subsection (a) of this section, invested or reinvested proceeds of an issue of taxable bonds shall be deemed to have been expended for a purpose specified for the issuance of bonds in the law under authority of which the bonds are issued if the earnings

thereon and proceeds of liquidation of the investments are acquired with such proceeds, to the extent that they are:

- (1) Applied to pay or service debt service on the bonds; or
- (2) Applied toward such a purpose.

(c) When the bond proceeds of taxable bonds are invested or reinvested by the governmental unit in obligations permitted by this subchapter, the issuance of the taxable bonds shall be deemed to be for a public purpose, provided, the net proceeds of such investment or reinvestment, after sufficient provision is made for debt service on the bonds, are then applied to a purpose for which the governmental unit has authority to issue bonds and the governmental unit has determined upon appropriate findings of fact that such application of net proceeds is for a public purpose which the governmental unit is authorized or empowered to perform.

History. Acts 1989, No. 632, §§ 6, 7.

19-9-710. Refunding bonds.

Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit or any more restrictive provisions of the law under authority of which the bonds are issued, the proceeds of taxable bonds issued to refund or advance refund a prior issue or issues of bonds may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of such refunding bonds.

History. Acts 1989, No. 632, § 8.

CHAPTER 10 CLAIMS AGAINST THE STATE

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS STATE CLAIMS COMMISSION.
3. EFFECT OF INSURANCE COVERAGE.
4. WORKERS' COMPENSATION COMMISSION.

A.C.R.C. Notes. References to "this chapter" in §§ 19-10-101 to 19-10-210 and Subchapters 3 and 4 may not apply to

§ 19-10-213, which was enacted subsequently.

RESEARCH REFERENCES

ALR. Actual notice or knowledge by governmental body or officer of injury or incident resulting in injury as constituting required claim or notice of claim for injury — modern status. 7 A.L.R.4th 1063.

Am. Jur. 72 Am. Jur. 2d, States, § 96 et seq.

Ark. L. Rev. Pagan, Eleventh Amendment Analysis, 39 Ark. L. Rev. 447.

C.J.S. 81A C.J.S., States, § 483 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-10-101. Investigatory powers.
- 19-10-102. Legal representative for state agencies.
- 19-10-103. State employee not to represent claimant.

SECTION.

- 19-10-104. Claims for late or lost warrants.

Cross References. Claims for reimbursement for uncollectible state warrants or checks, § 25-16-609.

Damages adjudged against state officers and employees, payment by state, § 21-9-201 et seq.

Governmental liability, § 21-9-201 et seq.

Effective Dates. Acts 1949, No. 462, § 17: approved Mar. 28, 1949. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition or the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: "It is found that the Statutes of this State do

not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1977, No. 826, § 3: approved Mar. 28, 1977. Emergency clause provided: "It has been found and determined by the General Assembly that duplicate warrants being redeemed by the State Treasurer causes extra duties to be performed by the State Treasurer, Auditor of State and the Department of Finance and Administration, therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage."

19-10-101. Investigatory powers.

The Director of the Department of Finance and Administration, as soon as the director learns of facts from which he or she concludes that a claim, other than for personal injury or death of a state employee, may be filed under this chapter against the state or any of its agencies, departments, or institutions, whether or not the claim has already been filed, is authorized and directed to investigate and take evidence concerning the claim. The director is, for this purpose, authorized to exercise all necessary investigatory powers conferred upon him or her by this chapter. All information acquired by the director shall be made available to the Arkansas State Claims Commission prior to the hearing and determination thereof.

History. Acts 1949, No. 462, § 12; 1951, No. 373, § 7; A.S.A. 1947, § 13-1412.

19-10-102. Legal representative for state agencies.

(a) The attorneys of any state agency, department, or institution against which a claim is filed shall represent their respective agencies before the Arkansas State Claims Commission. The Attorney General shall represent all agencies, departments, and institutions which have no special legal representatives before the Arkansas State Claims Commission.

(b) Legal representation for a public employer before the Workers' Compensation Commission shall be in the manner prescribed in § 21-5-606.

History. Acts 1949, No. 462, § 11;
A.S.A. 1947, § 13-1411.

19-10-103. State employee not to represent claimant.

No full-time employee of the State of Arkansas or of its agencies, nor a member of any agency, shall appear before either the Arkansas State Claims Commission or the Workers' Compensation Commission as attorney or representative for any claimant in the presentation or prosecution of any claim filed under this chapter.

History. Acts 1949, No. 462, § 13;
A.S.A. 1947, § 13-1413.

19-10-104. Claims for late or lost warrants.

The Arkansas State Claims Commission, before approving a claim for a state warrant for purchase of commodities delivered or services performed that has been lost or presented for payment after expiration of the legal date for redemption, shall request proof from the Auditor of State that the original warrant was legally cancelled because of late redemption presentation or, in the case of a lost warrant, an official warrant cancellation procedure has been exercised.

History. Acts 1977, No. 826, § 1; A.S.A.
1947, § 13-1415.

SUBCHAPTER 2 — ARKANSAS STATE CLAIMS COMMISSION

SECTION.

- 19-10-201. Creation of commission —
Members — Salary and expense reimbursement.
- 19-10-202. Director — Personnel.
- 19-10-203. Duties of director.
- 19-10-204. Jurisdiction.
- 19-10-205. Rules and regulations.
- 19-10-206. Meetings.
- 19-10-207. Power to examine.

SECTION.

- 19-10-208. Complaints.
- 19-10-209. Time for filing.
- 19-10-210. Notice and hearings.
- 19-10-211. Appeals of decisions.
- 19-10-212. Reports of state agency liability — Definition.
- 19-10-213. Agency to pay claim.
- 19-10-214. Effect on liens.
- 19-10-215. Restrictions on awards.

SECTION.

19-10-216. Commission decisions —

Findings of fact and conclusions of law required.

A.C.R.C. Notes. References to “this subchapter” in §§ 19-10-201 to 19-10-210 may not apply to § 19-10-213, which was enacted subsequently.

Effective Dates. Acts 1949, No. 462, § 17: approved Mar. 28, 1949. Emergency clause provided: “It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition or the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage.”

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: “It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage.”

Acts 1955, No. 276, § 5: Mar. 16, 1955. Emergency clause provided: “Whereas, it has been found and is declared by the General Assembly of the State of Arkansas that the present method employed by the State in paying its just debts causes innumerable hardships on the part of the claimants and causes unnecessary expenses and delay in recovering their just compensation from the State, all of which produces irreparable damage to the citizens of the State of Arkansas, now therefore, this act is necessary to remedy this existing situation and will remedy same, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, safety and welfare shall take effect upon its passage and approval.”

Acts 1983, No. 677, § 10: Mar. 22, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that various provisions of the Public Employees Retirement System law

need further clarification in order for their meaning to be comprehensible to members of the system and administrators. Therefore, an emergency is declared to exist, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 861, § 8: Apr. 4, 1985. Emergency clause provided: “It is hereby found and determined by the Seventy-Fifth General Assembly, meeting in Regular Session, that the persons and payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval.”

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1997, No. 850, § 39: Mar. 27, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1298, § 5: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an urgent need to clarify the jurisdiction of the Arkansas Claims Commission and that the amendment of § 19-10-204(b) will serve to further and accomplish this purpose. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1141, § 11: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1999."

Acts 2003, No. 926, § 8: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2003 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2003."

Acts 2009, No. 437, § 7: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009."

Acts 2011, No. 320, § 25: Mar. 17, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the state would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2013, No. 147, § 20: Feb. 26, 2013. Emergency clause provided: "It is found and determined by the General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the state would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor

may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Ark. L. Notes. Smolla, Politics and Due Process Don't Mix: Should the State Claims Commission Be Abolished?, 1986 Ark. L. Notes 43.

Ark. L. Rev. State Immunity and the Arkansas Claims Commission, 21 Ark. L. Rev. 180.

Hall v. University of Nevada: Sovereign Immunity and the Transitory Action, 27 Ark. L. Rev. 546.

Case Notes, Bly v. Young, Beaulieu v. Gray, and Carter v. Bush: The Arkansas State Employee Immunity Trilogy, 41 Ark. L. Rev. 893.

U. Ark. Little Rock L.J. Stafford, Separation of Powers and Arkansas Administrative Agencies: Distinguishing Judicial Power and Legislative Power, 7 U. Ark. Little Rock L.J. 279.

CASE NOTES

Administrative Review.

The Arkansas Administrative Procedure Act, providing for a review from actions of state commissions and agencies, has no application to the State Claims Commission. Fireman's Ins. Co. v. Ark.

State Claims Comm'n, 301 Ark. 451, 784 S.W.2d 771, cert. denied, 498 U.S. 824 (1990) (decision based in part on Acts 1949, No. 462, § 6 without regard to amendment by Acts 1983, No. 470, § 6).

19-10-201. Creation of commission — Members — Salary and expense reimbursement.

(a)(1) There is created a commission to be known as the "Arkansas State Claims Commission". It shall consist of five (5) members to be known as "commissioners". Two (2) members shall be attorneys and one (1) member shall be a public-spirited person of recognized standing.

(2)(A) The commissioners shall be appointed by the Governor and confirmed by the Senate. They shall serve for terms of five (5) years and thereafter until a successor has been appointed and qualified. A vacancy in the office of commissioner shall be filled by the Governor and that appointee shall hold office during the unexpired portion of the term in which the vacancy occurred.

(B) Members of the commission may be appointed to and may serve successive terms.

(b) Before entering upon the duties of his or her office, each commissioner shall take the constitutional oath of office.

(c)(1) A commissioner shall not hear or participate in the consideration of any claim in which he or she is interested personally, either directly or indirectly.

(2) If for reasons of conflicts of interest a commissioner disqualifies himself or herself or is absent for any reason from hearing a particular claim, the interested parties may request that a third special commissioner be appointed by the Governor to hear a specific claim.

(d) The commission shall elect from its membership a chair.

(e)(1) Each commissioner shall receive such salary as may be prescribed by law and appropriated by the General Assembly. The salary shall be paid in the manner as are salaries of other state officials and employees.

(2) In addition to salary, each member may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1955, No. 276, § 2; 1983, No. 470, § 1; 1985, No. 861, § 7; A.S.A. 1947, § 13-1401, 13-1401.2; Acts 1997, No. 250, § 175.

A.C.R.C. Notes. Acts 1985, No. 861, § 7, provided that the terms of office of the members of the Arkansas State Claims Commission serving on March 1, 1985, shall expire on July 1, 1985. As of July 1, 1985, the Arkansas State Claims Commission created by this section shall be composed of five persons. The five persons appointed by the Governor under this section shall be appointed for the following terms: Two shall serve until January 15, 1989, two shall serve until January 15, 1991, and the other shall serve until Janu-

ary 15, 1992, and they shall serve until their successors are appointed and qualified. Subsequent appointees shall serve five-year terms. Acts 1985, No. 861, § 7, does not abolish the Arkansas State Claims Commission created by this section except the provisions establishing the number of commissioners and their terms of office.

Acts 1955, No. 276, § 3, provided that the Arkansas State Claims Commission should have all the powers, etc., of the commission that it replaced and that all claims, etc., and records, etc., pending or belonging to the former commission were to be transferred to the new commission.

CASE NOTES

ANALYSIS

Jurisdiction.

Presumption of Regularity.

Jurisdiction.

Landowners who brought action against Arkansas Highway Commission and the director of the Department of Transportation to recover for inverse condemnation and to obtain an injunction, and alleged that they had been deprived of due process because of the unlawful taking of their property, did not need to resort to federal court when the remedies of the county chancery court and the State Claims Commission were available to them. *Mak Co. v. Smith*, 763 F. Supp. 1003 (W.D. Ark. 1991).

Presumption of Regularity.

Circuit court properly dismissed a contractor's due process challenge to the method by which breach of contract claims against the State are resolved because the

Arkansas Constitution makes clear that it is the duty of the General Assembly and its review subcommittees (which decide appeals from the Arkansas State Claims Commission) to make the very determinations challenged by the contractor and the contractor failed to establish a conflict of interest sufficient to overcome the presumption of impartiality to which the State Claims Commission and the General Assembly are clearly entitled. Thus, the contractor did not demonstrate an unconstitutional act that excepted its due-process claim from the State's sovereign immunity. *Duit Constr. Co. v. Arkansas State Claims Comm'n*, 2015 Ark. 462, 476 S.W.3d 791 (2015).

Cited: *Parish v. Pitts*, 244 Ark. 1239, 429 S.W.2d 45 (1968); *Boshears v. Arkansas Racing Comm'n*, 258 Ark. 741, 528 S.W.2d 646 (1975); *Fireman's Ins. Co. v. Ark. State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771; *Office of Child Support Enforcement v. Mitchell*, 330 Ark. 338, 954 S.W.2d 907 (1997).

19-10-202. Director — Personnel.

(a) The Executive Secretary of the Arkansas State Claims Commission or Clerk of the Arkansas State Claims Commission shall be designated by the Arkansas State Claims Commission and shall serve as the Director of the Arkansas State Claims Commission.

(b) The commission may appoint such other personnel as may be necessary to effectuate the operations of the commission and as may be authorized by biennial appropriation of the General Assembly.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405.

19-10-203. Duties of director.

(a) The Director of the Arkansas State Claims Commission shall maintain a system of filing and adjudicating of claims against the state. The director shall keep a docket of all claims filed and shall present them to the Arkansas State Claims Commission in the chronological order of filing.

(b) The director shall be responsible for maintenance and custody of the docket, files, and records of the commission, including the transcripts of testimony and exhibits, with all papers and requests filed in proceedings, the minutes of all actions taken, and all of the commission's findings, determinations, opinions, reports, orders, rules, and regulations.

(c) The director shall prepare the docket of claims to be considered by the commission and shall notify all parties of record of the time, date, and place of hearing in advance when a claim will be docketed for hearing before the commission.

(d) The director shall be authorized by the commission to sign or authenticate all orders and other actions of the commission.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405.

19-10-204. Jurisdiction.

(a) Except as otherwise provided by law, the Arkansas State Claims Commission shall have exclusive jurisdiction over all claims against the State of Arkansas and its several agencies, departments, and institutions, but shall have no jurisdiction of claims against municipalities, counties, school districts, or any other political subdivisions of the state.

(b)(1)(A)(i) The commission shall have no jurisdiction of, or authority with respect to, claims arising under:

(a) The Workers' Compensation Law, § 11-9-101 et seq.;

(b) The Department of Workforce Services Law, § 11-10-101 et seq.;

(c) The Arkansas Teacher Retirement System Act, Acts 1973, No. 427;

(d) The Arkansas Public Employees' Retirement System Act, Acts 1957, No. 177;

(e) The State Police Retirement System Act, § 24-6-201 et seq.; or

(f) Laws providing for old age assistance grants, child welfare grants, blind pensions, or any laws of a similar nature.

(ii) Additionally, the commission shall have no jurisdiction over claims against the state for repayment of child support, except in cases where the underlying support order is set aside as void ab initio by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.

(iii) The commission shall have no jurisdiction over:

(a) A claim by a member of the uniformed armed services against the State Military Department, the State militia, or any subdivision thereof, if the claim arises out of the performance of the claimant's military duty;

(b) Claims against the Department of Community Correction for acts committed by a person while that person is subject to conditions of parole or probation under Arkansas law;

(c) Claims against the Department of Correction for acts committed by inmates while on authorized release from the Department of Correction; or

(d) Claims against the Division of Youth Services of the Department of Human Services for acts committed by juveniles released by the division, whether or not the juvenile is subject to conditions of aftercare or probation.

(B) Claims solely addressing the receipting, processing, and reissuance of child support payments through the Arkansas Child Support Clearinghouse shall remain within the jurisdiction of the commission.

(2)(A) The commission shall have jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction.

(B) The commission shall have no jurisdiction over claims for state tax refunds under § 26-18-507, claims challenging tax assessments under § 26-18-406, and claims challenging tax laws under Arkansas Constitution, Article 16, § 13.

(3)(A) The commission shall make no award for any claim which, as a matter of law, would be dismissed from a court of law for reasons other than sovereign immunity.

(B) Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim.

(c) The commission shall have jurisdiction over actions to contest eligibility, qualification, or election to serve as a member of the House of Representatives for the purpose of making a nonbinding recommendation thereon to that chamber of the General Assembly.

(d) The commission shall have jurisdiction over claims to recover reasonable attorney's fees and other litigation expenses reasonably incurred by plaintiffs who substantially prevailed in actions under § 25-19-107 against the State of Arkansas or a department, agency, or institution of the state under the standard described in § 25-19-107(d)(1).

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1991, No. 1014, § 2; 1997, No. 1298, § 1; 2001, No. 1625, § 1; 2003, No. 1282, § 1; 2003, No. 1468, § 1; 2009, No. 440, § 1; 2013, No. 1478, § 1.

Meaning of "this act". Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-

604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

Acts 1957, No. 177, codified as §§ 24-4-101 — 24-4-105, 24-4-201, 24-4-202, 24-4-205, 24-4-207 — 24-4-209, 24-4-301 — 24-4-304, 24-4-401, 24-4-402, 24-4-507, 24-4-508, 24-4-510 — 24-4-513, 24-4-601 — 24-4-603, 24-4-605, 24-4-606.

Amendments. The 2013 amendment added (b)(1)(A)(iii)(d).

RESEARCH REFERENCES

ALR. Construction and Application of Parratt-Hudson Doctrine, Providing That Where Deprivation of Property Interest Is Occasioned by Random and Unauthorized Conduct of State Officials, Procedural Due Process Inquiry Is Limited to Issue of

Adequacy of Postdeprivation Remedies Provided by State. 89 A.L.R.6th 1.

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Public Finance, Claims Commission, 26 U. Ark. Little Rock L. Rev. 461.

CASE NOTES

ANALYSIS

Actions Against Agents.
 Constitutional Claims.
 Return of Property.
 Takings.
 Tort Claims.
 Workers' Compensation Awards.

Actions Against Agents.

Where an outdoor advertising sign was removed without compensation by an agent contractor of the State Highway Commission, the owner of the sign was limited to a remedy in state claims against the commission. However, he could pursue an action for commission of intentional tort on the part of the contractor. *Tri-B Adv., Inc. v. Arkansas State Hwy. Comm'n*, 260 Ark. 227, 539 S.W.2d 430 (1976).

Constitutional Claims.

Because the doctrine of sovereign immunity does not bar plaintiff from litigating his 42 U.S.C. § 1983 claim against defendant individually in state or federal courts of general jurisdiction, the Arkansas Claims Commission has no jurisdiction over the constitutional claim; the doctrine of claim preclusion did not bar the inmate's § 1983 action against a correctional officer because the inmate's claim against the officer in his individual capacity could not have been brought in the first action before the Commission because the Commission had no jurisdiction over that constitutional claim. *Smith v. Johnson*, 779 F.3d 867 (8th Cir. 2015).

Return of Property.

In a civil rights action, the plaintiff, who claimed that his house had been searched pursuant to warrant and that the officers had seized several personal items not covered by the warrant that were of sentimental value, was deprived of his prop-

erty without due process for he could not be granted adequate relief under this section, since only the claim against one of the officers was subject to the jurisdiction of the State Claims Commission and even a judgment in plaintiff's favor against such an officer would not give the plaintiff the remedy he sought, the return of specific property. *Bumgarner v. Bloodworth*, 738 F.2d 966 (8th Cir. 1984).

Takings.

A landowner's due process and equal protection claims are satisfied under Arkansas law since the landowner, claiming a taking of property, may either seek prospective injunctive relief in chancery court or damages from the State Claims Commission. *Austin v. Arkansas State Hwy. Comm'n*, 320 Ark. 292, 895 S.W.2d 941 (1995).

Tort Claims.

Arkansas Const., Art. 2, §§ 7 and 13 prevent the General Assembly from giving the State Claims Commission exclusive jurisdiction of tort claims against state employees or officers for their unlawful acts. *Grimmett v. Digby*, 267 Ark. 192, 589 S.W.2d 579 (1979).

Workers' Compensation Awards.

Where the State Claims Commission awarded payment to debtor as a result of her husband, a state employee, being killed in the line of duty within the scope of his employment, but did not, under this section, have jurisdiction to make such an award, the award was in the nature of an award under the Workers' Compensation Act and thus was not for the benefit of creditors in bankruptcy proceeding and under § 11-9-110 not subject to legal process. *Dinning v. Wills*, 4 B.R. 475 (Bankr. E.D. Ark. 1980).

Cited: *Hanley v. Arkansas State Claims Comm'n*, 333 Ark. 159, 970 S.W.2d 198 (1998).

19-10-205. Rules and regulations.

The Arkansas State Claims Commission shall have the power to make and alter or amend all rules and regulations governing the procedure before it which may be deemed necessary and expedient for the orderly discharge of its duties and which shall not be inconsistent with any of the provisions of this subchapter or other laws.

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402.

19-10-206. Meetings.

(a)(1) The Arkansas State Claims Commission shall meet at such time and place as may be designated by the Chair of the Arkansas State Claims Commission or the Director of the Arkansas State Claims Commission.

(2) General meetings of the commission for the purpose of hearing testimony and taking evidence will be held each month unless scheduled differently by the chair or director.

(b) The commission may, at its discretion, hold special meetings of the commission upon request by the interested parties.

(c) The commission shall traditionally meet in Little Rock at the State Capitol, but may conduct hearings elsewhere in the state if the commission deems a hearing is relative to business before the commission.

(d)(1) A majority of the commissioners shall constitute a quorum, and the concurrence of two (2) members of the commission shall be necessary for the allowance or disallowance of any claims.

(2) A vacancy shall not impair the right of the remaining two (2) members to exercise all powers of the full commission.

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1987, No. 249, § 1.

19-10-207. Power to examine.

(a) The Director of the Arkansas State Claims Commission or any member of the Arkansas State Claims Commission shall have the authority to administer oaths, to subpoena witnesses, to examine any books, documents, or records that may be relevant to any proceeding before the commission, and to require the production of any such materials.

(b) In actions to contest the election of a member of the House of Representatives, the commission's general authority to subpoena witnesses and documents shall specifically include the authority to subpoena election officers and to subpoena any and all ballots cast or other election records in the election at issue.

(c) If any claimant or witness to whom an oath has been administered as provided in this section shall swear falsely to any fact material to the investigation of a claim, such false swearing shall constitute perjury, and the guilty party shall be subject to prosecution therefor.

(d)(1) If any person or entity shall fail or refuse to obey any commission subpoena or order or shall refuse to testify or produce any books, papers, or other documents, the commission may present its petition setting forth the facts to any court of record. Thereupon, in a proper case, the court shall issue its subpoena to the person or entity,

requiring his or her or its attendance before the court to testify or produce such books, papers, and documents as may be deemed necessary and pertinent. Any person or entity failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena, as provided by the Arkansas Rules of Civil Procedure.

(2) The commission shall be entitled to the services of the Attorney General and the services of the prosecuting attorneys for the county and district in which the enforcement is required.

History. Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405; Acts 1991, No. 1014, § 3; 1999, No. 686, § 1.

19-10-208. Complaints.

(a)(1) All proceedings to enforce claims under this subchapter shall be commenced by a verified complaint, of which the original and three (3) copies shall be filed with the Director of the Arkansas State Claims Commission.

(2) The party filing the claim should be designated as the claimant, and the State of Arkansas shall be designated as respondent.

(b) The complaint shall state concisely the facts upon which the claim is based and shall set forth:

(1) The address of the claimant and the claimant's attorney, if any;
(2) The time and place of the circumstances giving rise to the claim;
(3) The state department, agency, or institution in which the claim originated;

(4) The amount claimed; and

(5) All averments of fact necessary to state a cause of action against a private person or corporation.

(c) If the claim is based upon a contract or other instrument in writing, a copy shall be attached to the complaint and the copies filed with the director.

(d)(1) In the complaint the claimant shall state whether his or her claim has been presented to any state department, or officer thereof, and if so, when presented, to whom, and what action was taken thereon.

(2) The claimant shall further state whether he or she has received any payment on account of such claim and, if so, the amount received.

(3)(A) The claimant also shall state whether any other person or corporation has any absolute or contingent interest in his or her claim.

(B) If any person or corporation is interested in the claim, the claimant shall state the name and address of that person or corporation having the interest, the nature of the interest, and how and when it was acquired.

(e) If the claimant is an executor, administrator, guardian, or other representative acting under judicial appointment, a duly certified copy of the record of appointment shall be filed with the complaint.

History. Acts 1949, No. 462, § 3; 1983, No. 470, § 3; A.S.A. 1947, § 13-1403.

19-10-209. Time for filing.

No claim may be considered and allowed by the Arkansas State Claims Commission unless it has been filed with the Director of the Arkansas State Claims Commission as provided by this subchapter within the period allowed by law for the commencement of an action for the enforcement of the same type of claim against a private person.

History. Acts 1949, No. 462, § 6; 1983, No. 470, § 6; A.S.A. 1947, § 13-1406.

A.C.R.C. Notes. The decision of the Supreme Court of Arkansas in *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771 (1990), which held that the Arkansas Administrative Procedure Act has no application to the State Claims Commission, was based upon provisions deleted from Acts 1949, No. 462, § 6 by Acts 1983, No. 470, § 6.

CASE NOTES

Cited: *Hardin v. City of DeValls Bluff*, 256 Ark. 480, 508 S.W.2d 559 (1974).

19-10-210. Notice and hearings.

(a) The Director of the Arkansas State Claims Commission shall notify each claimant and also the head of each state agency, department, or institution against which a claim is filed of the time and place set for the hearing thereof.

(b)(1) In conducting hearings, the Arkansas State Claims Commission shall not be bound by the formal rules of evidence and shall conduct all hearings publicly and in a fair and impartial manner, giving the parties full opportunity for presentation of evidence, cross-examination of witnesses, and argument.

(2) To the extent practicable, the commission shall adopt the procedure used by the circuit courts, and its hearing shall be conducted in a judicial manner.

History. Acts 1949, No. 462, § 4; 1951, 1947, § 13-1404; Acts 2005, No. 1962, No. 373, § 2; 1983, No. 470, § 4; A.S.A. § 88.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

U. Ark. Little Rock L.J. Arkansas Law Survey, Roberts and Deere, Torts, 8 U. Ark. Little Rock L.J. 207.

19-10-211. Appeals of decisions.

(a) A decision of the Arkansas State Claims Commission may be appealed only to the General Assembly.

(b) When any party to a claim before the commission is aggrieved by the decision of the commission concerning such claim, the aggrieved party may, on a form designed by the commission:

(1) Within forty (40) days after the decision is rendered, file with the commission a notice of appeal of the decision to the General Assembly; or

(2) Within forty (40) days after the decision is rendered, file with the commission a motion for reconsideration requesting the commission to reconsider its decision; and

(3) Within twenty (20) days after commission reconsideration or denial of the motion for reconsideration, file with the commission a notice of appeal of the decision to the General Assembly.

(c) The commission shall, in a timely manner, notify the Legislative Council or the appropriate committee of the General Assembly and all parties to the claim when any notice of appeal to the General Assembly is filed with the commission.

(d) When the commission notifies parties of a decision of the commission, it shall advise the parties of the right of appeal.

History. Acts 1997, No. 33, § 1.

CASE NOTES

Presumption of Regularity.

Circuit court properly dismissed a contractor's due process challenge to the method by which breach of contract claims against the State are resolved because the Arkansas Constitution makes clear that it is the duty of the General Assembly and its review subcommittees (which decide appeals from the Arkansas State Claims Commission) to make the very determinations challenged by the contractor and the

contractor failed to establish a conflict of interest sufficient to overcome the presumption of impartiality to which the State Claims Commission and the General Assembly are clearly entitled. Thus, the contractor did not demonstrate an unconstitutional act that excepted its due-process claim from the State's sovereign immunity. *Duit Constr. Co. v. Arkansas State Claims Comm'n*, 2015 Ark. 462, 476 S.W.3d 791 (2015).

19-10-212. Reports of state agency liability — Definition.

(a)(1) As used in this section, "state agency" means a department, office, board, commission, or institution of this state, including a state-supported institution of higher education.

(2) When a state agency admits liability to a claim filed with the Arkansas State Claims Commission, the state agency shall file a written report of the claim with the Litigation Reports Oversight Subcommittee of the Legislative Council if the claim:

(A) Involves a contract with the state agency; or

(B) Exceeds fifteen thousand dollars (\$15,000).

(3) The state agency shall include in its report a concise statement of facts with an explanation of the state agency's liability.

(4) The state agency shall file its report within thirty (30) days after the claim has been adjudicated by the Arkansas State Claims Commission.

(b) The Office of the Arkansas Lottery shall file its report under subsection (a) of this section with the Legislative Council.

History. Acts 1997, No. 850, § 30; 2005, No. 1962, § 89; 2013, No. 147, § 17; 2013, No. 1131, § 2; 2015, No. 218, § 20; 2015, No. 1258, § 17.

A.C.R.C. Notes. Acts 2012, No. 259, § 14, provided: “CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve thousand five hundred dollars (\$12,500) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such report shall include a concise statement of facts with an explanation of the agency’s liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission.”

Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 17 specifically amended this section as amended by Acts 2015, No. 218, § 20.

Amendments. The 2013 amendment by No. 147 substituted “fifteen thousand dollars (\$15,000)” for “ten thousand dollars (\$10,000)” in (a).

The 2013 amendment by No. 1131 rewrote the section.

The 2015 amendment by No. 218, in (b), inserted “Office of the” and deleted “Commission” following “Lottery” twice.

The 2015 amendment by No. 1258, substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (b).

19-10-213. Agency to pay claim.

In the event that any claim authorized herein is determined to be a valid claim against the state and the claim is to be paid from funds not in the State Treasury, the Clerk of the Arkansas State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forthwith deliver a check to the clerk who shall deposit the same as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he or she shall disburse the amount of the claim to the claimant.

History. Acts 1997, No. 850, § 33.

A.C.R.C. Notes. References to “this subchapter” in §§ 19-10-201 to 19-10-210 may not apply to this section which was enacted subsequently.

References to “this chapter” in §§ 19-10-101 to 19-10-210 and Subchapters 3 and 4 may not apply to this section which was enacted subsequently.

Act 2016, No. 158, § 4, provided: “**EMPLOYMENT COMPENSATION CLAIMS.** The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 241, § 17, provided: “**DISBURSING OFFICER.** The Clerk of the State Claims Commission is hereby made the disbursing officer for the purpose of paying the claims appropriated by this Act. The Clerk of the State Claims Commission is hereby authorized to receive all warrants prepared under the provisions of this Act from the Auditor of State and to distribute same to the claimants.”

Acts 2016, No. 241, § 18, provided: “**ARKANSAS DEPARTMENT OF HUMAN SERVICES CLAIMS.** For any claims in this Act appropriated to the Department of Human Services, the Clerk of the State Claims Commission shall consult with the Department of Human Services and the Chief Fiscal Officer of the State to determine the division and funds to which liability should be assigned and from which the warrants shall be drawn. The Clerk of the State Claims Commission

shall initiate the appropriate transfers as may be required and as approved by the Chief Fiscal Officer of the State.”

Acts 2016, No. 241, § 19, provided: “**ARKANSAS DEPARTMENT OF HEALTH CLAIMS.** For any claims in this Act appropriated to the Department of Health, the Clerk of the State Claims Commission shall consult with the Department of Health and the Chief Fiscal Officer of the State to determine the division and funds to which liability should be assigned and from which the warrants shall be drawn. The Clerk of the State Claims Commission shall initiate the appropriate transfers as may be required and as approved by the Chief Fiscal Officer of the State.”

Acts 2016, No. 241, § 20, provided: “**CLAIMS FROM CASH FUNDS.** In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forth-with deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he shall disburse the amount of the claim to the claimant.”

Acts 2016, No. 241, § 21, provided: “**EMPLOYMENT COMPENSATION CLAIMS.** The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.”

19-10-214. Effect on liens.

(a) Arkansas State Claims Commission awards are state property and therefore liens may not attach to commission awards, nor may an award be assigned.

(b) If the commission and the General Assembly approve appeals or claims above seven thousand five hundred dollars (\$7,500) and name as payees, in addition to the claimant, other individuals or entities who would normally have liens in a court of law, other than insurance company claims for subrogation, then the commission may deposit the amount approved in the registry of the Pulaski County Circuit Court. After reasonable notice to the claimant and any named payees, the court shall establish the validity and priority to the moneys upon petition of the claimant or any named payee.

History. Acts 1999, No. 685, § 1.

19-10-215. Restrictions on awards.

(a) With the exception of death and disability benefit claims paid under § 21-5-701 et seq., no award may be paid in excess of fifteen thousand dollars (\$15,000).

(b) If the award is greater than fifteen thousand dollars (\$15,000), the claim shall be referred to the General Assembly for an appropriation.

History. Acts 1999, No. 1141, § 4; 2003, No. 926, § 4; 2011, No. 320, § 16; 2013, No. 147, § 11.

Amendments. The 2011 amendment substituted “twelve thousand five hundred dollars (\$12,500)” for “ten thousand dollars (\$10,000)” in (a) and (b).

The 2013 amendment substituted “fifteen thousand dollars (\$15,000)” for “twelve thousand five hundred dollars (\$12,500)” in (a) and (b).

19-10-216. Commission decisions — Findings of fact and conclusions of law required.

(a)(1) When the Arkansas State Claims Commission dismisses a claim or issues a final adjudication of a claim on the merits, the commission shall set forth specific findings of fact and conclusions of law to support its decision.

(2) Citations to a party’s motion or argument do not fulfill the requirements of this subsection unless otherwise supported by an explanation, with particularity, as to why the party’s motion or argument is determinative to the outcome of the claim.

(3) When the commission bases its decision on a specific rule of civil procedure, rule of evidence, statute, or controlling appellate court decision, the commission shall cite the rule, statute, or appellate court decision.

(4) A claim will not be accepted by the General Assembly on appeal that has as its final adjudication findings of fact and conclusions of law that do not comply with this section.

(b) Failure to comply with this section shall result in the General Assembly's sending the claim back to the commission for reconsideration until the requirements of subsection (a) of this section are met.

(c) A claim filed by a person who at the time of filing is an inmate of the Department of Correction is exempted from the requirements of this section.

History. Acts 2015, No. 220, § 1.

SUBCHAPTER 3 — EFFECT OF INSURANCE COVERAGE

SECTION.

19-10-301. Definitions.

19-10-302. Exhaustion of remedies against insurer.

19-10-303. Reduction of award.

19-10-304. Subrogation claims not heard.

SECTION.

19-10-305. Immunity of state officers and employees — Status as employee.

19-10-306. Res judicata or collateral estoppel.

Effective Dates. Acts 1981, No. 586, § 8: Mar. 18, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Claims Commission does not now hear claims when the injured party has received partial compensation from an insurer; that such policy is inequitable and that this Act is immediately necessary to provide such equitable treatment. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 542, § 11: Mar. 14, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that a recent court decision has led to uncertainty in the area of immunity under existing Arkansas Code provisions; that to clarify such provisions will allow those persons to avoid needless legal expenses resulting from the possible misinterpretation of the law. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 292, § 7: Mar. 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that a recent court decision regarding Act 542 of 1991 has led to uncertainty and confusion in the area of immunity of officials and employees of the state and local government of Arkansas; that this act is necessary to clarify the application and immunities of Act 542 of 1991 and to avoid the unintended interpretation of Act 542 as permitting suits directly against the liability insurers for state and local government officials and employees; and that it is necessary to extend its coverage retroactively to the effective date of Act 542 of 1991. Therefore, in order to prevent the misinterpretation of law, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1567, § 28: July 1, 1999. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the United States Congress has amended the laws pertaining to certain federally funded public assistance programs; that these programs are crucial to the life and health of many needy citizens of the State of

Arkansas who otherwise will be unable to obtain food, clothing, shelter, or medical care; that federal funds have already been appropriated for this program and any delays could work irreparable harm upon the proper administration of essential governmental programs and the State of

Arkansas may risk forfeiture of the federal funding; that this act so provides. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect on July 1, 1999.”

RESEARCH REFERENCES

Ark. L. Rev. Case Notes, *Bly v. Young*, *Beaulieu v. Gray*, and *Carter v. Bush*: The

Arkansas State Employee Immunity Trilogy, 41 Ark. L. Rev. 893.

19-10-301. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) “Insurer” means every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance; and
- (2) “Subrogation claim” means any claim filed with the Arkansas State Claims Commission by an insurer or its insured, or both, to recover money paid or owed by an insurer to any individual under a contract of insurance.

History. Acts 1981, No. 586, § 1; A.S.A. 1947, § 13-1416.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Civil Procedure, 8 U. Ark. Little Rock L.J. 555.

19-10-302. Exhaustion of remedies against insurer.

(a) The Arkansas State Claims Commission shall not dismiss a claim with prejudice on grounds that the claimant has received or is due benefits under a policy of insurance. However, the commission shall hear no claim until the claimant has exhausted all remedies against insurers, including the claimant’s insurer.

(b) Every claim filed with the commission shall be accompanied by a sworn affidavit, on a form to be provided by the commission, signed by the claimant and witnessed by the claimant’s insurer and legal counsel, if any, that the claimant has exhausted all remedies against insurers, including the claimant’s insurer. The affidavit shall further state the total amount of insurance benefits paid to the claimant.

History. Acts 1981, No. 586, § 2; A.S.A. 1947, § 13-1417.

19-10-303. Reduction of award.

(a) If the Arkansas State Claims Commission awards damages to a claimant who has received benefits under any policy of insurance, the premium of which has not been paid by or on behalf of the claimant, the commission shall reduce its award by the amount of insurance benefits received by the claimant.

(b) The commission shall not reduce awards for damages to a claimant who has received benefits under a policy of insurance, the premium of which has been paid by or on behalf of the claimant.

History. Acts 1981, No. 586, § 3; A.S.A. 1947, § 13-1418.

19-10-304. Subrogation claims not heard.

The Arkansas State Claims Commission shall not hear subrogation claims. This fact shall in no way alter or vary the operation or coverage of §§ 21-9-201 — 21-9-205.

History. Acts 1981, No. 586, § 4; A.S.A. 1947, § 13-1419.

19-10-305. Immunity of state officers and employees — Status as employee.

(a) Officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.

(b) For purposes of this chapter, agreements between the State of Arkansas and a state of the United States or the District of Columbia entered into pursuant to the Interlocal Cooperation Act, § 25-20-101 et seq., shall confer status of an employee for purposes of this chapter on persons acting pursuant to such agreement.

(c) For purposes of this chapter, persons acting individually or on behalf of charitable organizations, other than motor carriers as defined by § 23-13-203(a)(13), shall have the status of an employee while transporting persons as a service of the Transitional Employment Assistance Program.

(d) For purposes of this chapter, dental residents and faculty of a pediatric dentistry program in an adjoining state shall have the status of an employee while on duty and performing assigned responsibilities in a pediatric dentistry program located within a hospital dental clinic in this state.

History. Acts 1981, No. 586, § 5; A.S.A. 1947, § 13-1420; Acts 1989, No. 989, § 1; 1991, No. 542, § 6; 1993, No. 292, § 1; 1999, No. 1567, § 23; 2009, No. 284, § 1.

A.C.R.C. Notes. Acts 1993, No. 292, § 3, provided: "This act shall have a retroactive application to the effective date of Act 542 of 1991 to avoid the misinterpre-

tation of the intent of Act 542 as permitting suits directly against liability insurers of state and local government officials and employees. This act is intended to

have retroactive effect so as to apply to any suits pending as of the effective date of this act.”

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Torts, 11 U. Ark. Little Rock L.J. 261.

CASE NOTES

ANALYSIS

Constitutionality.
In General.
Consent of State.
Employees Held Immune.
Jurisdiction.
Liability Insurance of Employee.
Malicious Conduct.

Constitutionality.

Application of the 1993 amendment would not constitute an unconstitutional retroactive application to any suit pending at time of amendment’s effective date as the amendment simply added the clause “except to the extent that they be covered by liability insurance” to qualify an employee’s immunity. *National Bank of Commerce v. Quirk*, 323 Ark. 769, 918 S.W.2d 138 (1996), overruled in part, *Ark. Dep’t of Health & Human Servs. v. Ahlborn*, 547 U.S. 268 (2006).

In General.

If officers and employees of the State of Arkansas act without malice and within the scope of their employment, they are immune from an award of damages in litigation. *Smith v. Denton*, 320 Ark. 253, 895 S.W.2d 550 (1995).

The concept of sovereign immunity is well grounded in Arkansas law. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

By enacting subsection (a) of this section, the General Assembly did not intend to repeal § 19-10-305(a); repeal by implication is not favored and the sections can be read in harmony. *Robinson v. Langdon*, 333 Ark. 662, 970 S.W.2d 292 (1998).

Consent of State.

Where a suit is brought against an officer or agency with relation to some matter in which defendant represents the

state in action and liability, and the state, while not a party to the record, is the real party against which relief is sought so that a judgment for plaintiff, although nominally against the named defendant as an individual or entity distinct from the state, will operate to control the action of the state or subject it to liability, the suit is in effect one against the state and cannot be maintained without its consent. *Assaad-Faltas v. University of Ark. for Medical Sciences*, 708 F. Supp. 1026 (E.D. Ark. 1989), *aff’d* without op., 902 F.2d 1572 (8th Cir.), *cert. denied*, 498 U.S. 905 (1990).

Employees Held Immune.

Where an action was filed against employees of the state, those employees were immune from civil liability for nonmalicious acts occurring within the course of their employment under this section. *Beaulieu v. Gray*, 288 Ark. 395, 705 S.W.2d 880 (1986).

Where plaintiffs sued three state employees for acts performed in their official capacities, the action was tantamount to an action against the State of Arkansas; sovereign immunity, therefore, applied and protected not only the State but its employees as well. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

A wildlife officer acting within the scope of his employment was immune from liability for his entry onto the defendant’s property and damages caused thereby. *Rainey v. Hartness*, 339 Ark. 293, 5 S.W.3d 410 (1999).

Employees of the Department of Community Punishment were entitled to immunity with regard to the termination of employment of parole officer, without regard to whether they acted maliciously or outside the scope of their employment, since the parole officer was an at-will

employee and could be terminated for any reason or no reason at all. *Ball v. State Dep't of Community Punishment*, 340 Ark. 424, 10 S.W.3d 873 (2000).

In an inmate's civil rights suit involving a prison grooming policy, the prison officials were personally immune from suit because they did not, in enacting and enforcing the grooming policy, violate clearly established principles of law of which a reasonable person would have knowledge. *Fegans v. Norris*, 351 Ark. 200, 89 S.W.3d 919 (2002).

State trooper was immune in his individual capacity under subsection (a) of this section due to the non-malicious nature of the actions involved; the trooper contended that he was merely conducting a pat-down on a passenger in a car after the driver was arrested for an outstanding warrant. The complaint contained mere allegations of maliciousness and sexual intent. *Simons v. Marshall*, 369 Ark. 447, 255 S.W.3d 838 (2007).

Appellees' allegations were conclusory and did not support each cause of action appellees pled against each individually named Arkansas Department of Environmental Quality employee; even with regard to certain emails, appellees' pleadings amounted to bare conclusions of malice. *Arkansas Dep't of Env'tl. Quality v. Al-Madhoun*, 374 Ark. 28, 285 S.W.3d 654 (2008).

Because plaintiff inmates made no allegations of willful, wanton, or otherwise malicious conduct on the part of defendant prison officials, much less sufficient factual support to stave off summary judgment, the officials were entitled to summary judgment on the inmate's state law claims due to statutory immunity under subsection (a) of this section. *Langford v. Norris*, 614 F.3d 445 (8th Cir. 2010).

In an action by a county resident against officials of the Arkansas Game and Fish Commission, alleging that the Commission unconstitutionally entered into gas leases with private companies, the officials were entitled to immunity under subsection (a) of this section because the resident failed to plead that the officials' acts were covered by liability insurance or that those acts were committed maliciously, or that the officials acted outside the scope of their employment in leasing the Commission's land or in utilizing the revenue from those leases. Fur-

ther, the amended complaint did not seek any relief from the officials in their individual capacities. *Dockery v. Morgan*, 2011 Ark. 94, 380 S.W.3d 377 (2011).

Inmate's individual-capacities negligence claim against prison officials arising from another inmate's assault failed because (1) the inmate did not allege the assault was more than a surprise, and, (2) if the officials ignored prison policies and inadequately protected the inmate, the inmate did not allege the officials acted with malice or an intent to harm the inmate, so the officials were immune under this section. *Early v. Crockett*, 2014 Ark. 278, 436 S.W.3d 141 (2014).

To the extent school districts made any claims against the director of the Arkansas Department of Human Services individually, they were barred by subsection (a) of this section because the districts did not allege any malicious acts or omissions by the director nor did they allege that he acted outside the scope of his employment. *Arkansas Dep't of Human Servs. v. Fort Smith Sch. Dist.*, 2015 Ark. 81, 455 S.W.3d 294 (2015).

Jurisdiction.

Where the complaint alleged that defendant intentionally deprived plaintiff of employment without just cause and for personal motives, the trial court had jurisdiction to hear the claim against defendant in both his individual and official capacities. *Cross v. Arkansas Livestock & Poultry Comm'n*, 328 Ark. 255, 943 S.W.2d 230 (1997).

Liability Insurance of Employee.

Employee of the state may be held liable for an act done in the performance of his duties as a state employee to the extent the employee carries liability insurance. *Bly v. Young*, 293 Ark. 36, 732 S.W.2d 157 (1987).

Physician who worked part-time for the Arkansas Department of Health could be held liable for damages resulting from the improper insertion of an intrauterine device to the extent that he carried liability insurance. *Bly v. Young*, 293 Ark. 36, 732 S.W.2d 157 (1987).

Malicious Conduct.

This section, conferring immunity to officers and employees does not protect them if they act maliciously; however, a bare allegation of willful and wanton con-

duct will not suffice to allege facts sufficient to support the claim of malicious conduct. *Beaulieu v. Gray*, 288 Ark. 395, 705 S.W.2d 880 (1986).

This section does not protect state employees if they act maliciously, and under Arkansas law, statements made with actual malice include not only those made with spite, hatred, or vindictiveness, but also those made with such reckless disregard of the rights of another as to constitute the equivalent of ill will. *Bland v. Verser*, 299 Ark. 490, 774 S.W.2d 124 (1989).

The defendant government officials were not immune from suit under the doctrine of sovereign immunity since sufficient allegations of malicious conduct were alleged in the complaint where the plaintiff alleged that the defendants conspired to have him arrested for the malicious purpose of embarrassing him and damaging his professional reputation and with knowledge that no probable cause existed; that the allegations in the arrest warrant were false, and that no prosecution would ensue. *Heigle v. Miller*, 332 Ark. 315, 965 S.W.2d 116 (1998).

The exception for malicious conduct did not apply to an action arising from a motor vehicle accident which occurred because of the absence of a stop sign at an intersection, notwithstanding that the absence of the sign had been reported to the appropriate state agency two days earlier and the contention that the defendant state employees knew, or should have known, that the failure to replace the stop sign could naturally and foreseeably result in death or serious bodily injury through automobile accidents. *Fuqua v. Flowers*, 341 Ark. 901, 20 S.W.3d 388 (2000).

The exception for malicious conduct did not apply to an action arising from a motor vehicle accident which occurred because of the absence of a stop sign at an intersection, notwithstanding that the absence of the sign had been reported to the appropriate state agency two days earlier and the contention that the defendant state employees knew, or should have known, that the failure to replace the stop sign could naturally and foreseeably result in death or serious bodily injury through automobile accidents. *Fuqua v. Flowers*, 341 Ark. 901, 20 S.W.3d 388 (2000).

Appellees were entitled to statutory immunity as it was obvious that plaintiff, who alleged that his civil rights were violated while appellees subjected him to the practical skills part of the Arkansas Emergency Medical Technician Practical Examination, failed to allege liability coverage or show that appellees committed any malicious act or omission in the course of their employment. *Hanks v. Sneed*, 366 Ark. 371, 235 S.W.3d 883 (2006), overruled in part, *Hardin v. Bishop*, 2013 Ark. 395, 430 S.W.3d 49 (2013).

Trial court erred by denying the motion for summary judgment of the Administrator of the Arkansas State Hospital and its employee based on qualified/statutory immunity grounds under this section because, as to the nurse's Arkansas Civil Rights Act claims against the employee in her individual capacity, nowhere in the complaint or materials were there specific factual allegations that asserted that the employee personally acted with malice. *Smith v. Daniel*, 2014 Ark. 519, 452 S.W.3d 575 (2014).

Where a detainee was involved in a single-vehicle accident, failed a breath test, was arrested, fell to the ground and was not responsive, was transported to a detention center, and died in a holding room, a trooper was not entitled to statutory immunity under the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq., because the complaint alleged facts sufficient to create an inference of malice. *Barton v. Taber*, 820 F.3d 958 (8th Cir. 2016).

Cited: *Carter v. Bush*, 296 Ark. 261, 753 S.W.2d 534 (1988); *Cousins v. Dennis*, 298 Ark. 310, 767 S.W.2d 296 (1989); *City of Little Rock v. Weber*, 298 Ark. 382, 767 S.W.2d 529 (1989); *Fireman's Ins. Co. v. Ark. State Claims Comm'n*, 301 Ark. 451, 784 S.W.2d 771; *Cundiff v. Crider*, 303 Ark. 120, 792 S.W.2d 604 (1990); *Burk v. Beene*, 948 F.2d 489 (8th Cir. 1991); *Qualls v. Ferritor*, 329 Ark. 235, 947 S.W.2d 10 (1997); *Grine v. Board of Trustees*, 338 Ark. 791, 2 S.W.3d 54 (1999); *Okruhlik v. Univ. of Ark.*, 255 F.3d 615 (8th Cir. 2001); *Smith v. Brt*, 363 Ark. 126, 211 S.W.3d 485 (2005); *Martin v. Hallum*, 2010 Ark. App. 193, 374 S.W.3d 152 (2010).

19-10-306. Res judicata or collateral estoppel.

If an individual commences a civil action in any court of law within this state which arises out of the same subject matter or occurrence that is the subject matter of a complaint before the Arkansas State Claims Commission, the commission shall recognize any final judgment or order rendered in the civil action as a bar to further consideration of the claim in accordance with principles of res judicata and collateral estoppel.

History. Acts 1981, No. 586, § 6; A.S.A. 1947, § 13-1421.

SUBCHAPTER 4 — WORKERS' COMPENSATION COMMISSION**SECTION.**

- 19-10-401. Reports of personal injury or death.
- 19-10-402. Jurisdiction and procedure.
- 19-10-403. Workers' Compensation Revolving Fund.

SECTION.

- 19-10-404. State deemed self-insurer.
- 19-10-405. Awards and expenses.
- 19-10-406. Report of findings.

Effective Dates. Acts 1949, No. 462, § 17: approved Mar. 28, 1949. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1951, No. 373, § 11: approved Mar. 20, 1951. Emergency clause provided: "It is found that the Statutes of this State do not adequately provide for the prompt investigation and disposition of the payment of claims against the State, nor do they afford adequate protection of public

funds, and that this act is necessary for the preservation of the public peace, health, and safety, an emergency is therefore declared and this act shall take effect and be in force from and after its passage."

Acts 1963, No. 521, § 2: Mar. 19, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that under the present law there is some doubt as to whether the Workmen's Compensation Commission has jurisdiction of claims for injuries to or death of officers of the State, and that it is imperative that this ambiguity be clarified immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Arkansas Law Survey, Roberts and Deere, Torts, 8
U. Ark. Little Rock L.J. 207.

19-10-401. Reports of personal injury or death.

All state officers, heads of agencies, departments, and institutions shall file a report with the Workers’ Compensation Commission, within ten (10) days after knowledge of any personal injury or death of any employee of the state or any of its agencies, departments, or institutions. This report shall be made on forms approved by the commission and shall give the date, place, and time of day of any such injury or death, briefly stating the circumstances and extent thereof, the name of the injured or deceased person, and the names of any and all witnesses.

History. Acts 1949, No. 462, § 10; 1951, No. 373, § 6; A.S.A. 1947, § 13-1410.

19-10-402. Jurisdiction and procedure.

(a)(1) The Workers’ Compensation Commission shall have exclusive jurisdiction, as limited in this subchapter, of all claims against the State of Arkansas and its several agencies, departments, and institutions for personal injuries and deaths of employees and officers of the State of Arkansas and its agencies, departments, and institutions arising out of and in the course of employment or service.

(2)(A) Awards for these injuries and deaths shall be made by the commission in the same amounts and on the same terms and conditions as if such injuries and deaths had arisen out of and in the course of private employment covered by the Workers’ Compensation Law, § 11-9-101 et seq.

(B) The procedure to be followed in the presentation, hearing, and determination of claims shall, in all respects, be the same as in claims for compensation for injuries and deaths arising out of and in the course of private employment covered by the Workers’ Compensation Law, § 11-9-101 et seq.

(b) The General Assembly shall at each session appropriate, from such sources as it may see fit, a sum sufficient to satisfy such claims as are or probably will be payable during the following fiscal year under awards made under this section. The commission shall direct the distributions of this fund and make disbursements upon the vouchers issued against it.

History. Acts 1949, No. 462, § 7; 1951, 597, § 1; A.S.A. 1947, § 13-1407; Acts No. 373, § 3; 1963, No. 521, § 1; 1979, No. 2009, No. 962, § 39.

CASE NOTES

ANALYSIS

Constitutionality.
Effect of Release.
Reduction of Benefits.
School District Employees.

Teachers.

Constitutionality.

This section, which simply makes the Arkansas Workers’ Compensation Commission a “claims commission” in connection with claims by state employees for

injuries or death growing out of their employment by the state and provides that, in administering its duties in connection with such claims, the Workers' Compensation Commission shall apply the compensation law as it relates to private industry, does not violate the equal protection clauses of the state or federal constitutions. *Boshears v. Arkansas Racing Comm'n*, 258 Ark. 741, 528 S.W.2d 646 (1975).

Effect of Release.

Where a third party suit to determine the right to insurance payment, joined in by widow, other heirs, and administrators of deceased highway employee, resulted in a consent judgment for \$10,000, and a release thereafter executed by the administrators recited receipt of \$10,000, but stated that it did not include \$3,000 received by widow from the insurer of the highway department, and \$10,000 was prorated by heirs under family settlement, only the widow was entitled to the \$3,000 as the other heirs were estopped by the release. *Jenkins v. Jenkins*, 219 Ark. 547, 243 S.W.2d 646 (1951).

Reduction of Benefits.

Any amounts which a state employee received from state under this section would reduce the benefits payable under an uninsured motorist provision of an insurance policy providing for a reduction for amounts received under workers' compensation law, disability benefits law, or any similar law. *Edmundson v. Commercial Union Ins. Co.*, 249 Ark. 350, 459 S.W.2d 112 (1970).

School District Employees.

A school district is not an agency of the state, and its employees are not state employees within the meaning of this section. *Muse v. Prescott Sch. Dist.*, 233 Ark. 789, 349 S.W.2d 329 (1961).

Teachers.

Teachers employed by a school district do not come within the purview of this section. *Muse v. Prescott Sch. Dist.*, 233 Ark. 789, 349 S.W.2d 329 (1961).

Cited: *Parish v. Pitts*, 244 Ark. 1239, 429 S.W.2d 45 (1968); *Arkansas State Hwy. & Transp. Dep't v. Godwin*, 270 Ark. 743, 606 S.W.2d 127 (1980); *Dinning v. Wills*, 4 B.R. 475 (Bankr. E.D. Ark. 1980).

19-10-403. Workers' Compensation Revolving Fund.

(a) There is created in the State Treasury a special fund to be known as the "Workers' Compensation Revolving Fund". All sums appropriated by the General Assembly pursuant to this subchapter shall be deposited by the Treasurer of State to the account of the fund.

(b) The Workers' Compensation Commission shall draw all vouchers against the fund in payment of awards made by it under this subchapter.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407.

CASE NOTES

Cited: *Parish v. Pitts*, 244 Ark. 1239, 429 S.W.2d 45 (1968); *Arkansas State Hwy. & Transp. Dep't v. Godwin*, 270 Ark. 743, 606 S.W.2d 127 (1980); *Dinning v. Wills*, 4 B.R. 475 (Bankr. E.D. Ark. 1980).

19-10-404. State deemed self-insurer.

For the purposes of this subchapter, the State of Arkansas shall be considered a self-insurer and shall be exempt from all fees and tax as such.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407.

CASE NOTES

Cited: Parish v. Pitts, 244 Ark. 1239, 743, 606 S.W.2d 127 (1980); Dinning v. 429 S.W.2d 45 (1968); Arkansas State Wills, 4 B.R. 475 (Bankr. E.D. Ark. 1980). Hwy. & Transp. Dep't v. Godwin, 270 Ark.

19-10-405. Awards and expenses.

In the event an award is made, the Workers' Compensation Commission shall immediately take the necessary steps to pay the award and all expenses incidental to the claim from any funds previously made available by the General Assembly for such purpose.

History. Acts 1949, No. 462, § 9; 1951, No. 373, § 5; A.S.A. 1947, § 13-1409.

CASE NOTES

Cited: Boshears v. Arkansas Racing Comm'n, 258 Ark. 741, 528 S.W.2d 646 (1975).

19-10-406. Report of findings.

Upon the allowance or disallowance of any claim, the Workers' Compensation Commission shall immediately transmit a copy of its findings to the Director of the Department of Finance and Administration and interested parties.

History. Acts 1949, No. 462, § 9; 1951, No. 373, § 5; A.S.A. 1947, § 13-1409.

CASE NOTES

Cited: Boshears v. Arkansas Racing Comm'n, 258 Ark. 741, 528 S.W.2d 646 (1975).

CHAPTER 11

PURCHASING AND CONTRACTS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS PROCUREMENT LAW.
3. BIDDING — STATE INDUSTRY PRIORITY.
4. BIDDING — BONDS. [REPEALED.]
5. PURCHASES OF WORKSHOP-MADE PRODUCTS AND SERVICES. [REPEALED.]
6. FEDERAL GOVERNMENT SURPLUS PROPERTY.
7. ETHICS.
8. PROCUREMENT OF PROFESSIONAL SERVICES.

SUBCHAPTER

9. PURCHASES OF WORK CENTER PRODUCTS AND SERVICES.
10. PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS.
11. PURCHASE OF TECHNOLOGY SYSTEMS.
12. GUARANTEED ENERGY COST SAVINGS ACT.
13. PARTIAL EQUITY OWNERSHIP AGREEMENT EXECUTED BY A STATE RETIREMENT SYSTEM.

RESEARCH REFERENCES

ALR. Bid on public contract, right to rescind based on mistake. 2 A.L.R.4th 991.

Statute prohibiting award of government contract to person or business entity previously convicted of bribery or attempting to bribe state public employee. 7 A.L.R.4th 1202.

Waiver of competitive bidding require-

ments. 40 A.L.R.4th 968.

Amount of appropriation as limitation on damages for breach of contract recoverable by one contracting with government agency. 40 A.L.R.4th 998.

Am. Jur. 64 Am. Jur. 2d, Pub. Works, § 8 et seq.

C.J.S. 73A C.J.S., Pub. Contr., § 1 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-11-101. Responsibility of disbursing officer — Maintenance of files by Office of State Procurement.
- 19-11-102. Use of soybean ink in state printing.
- 19-11-103. Penalty for violation of law.

SECTION.

- 19-11-104. Equal opportunity policy.
- 19-11-105. Illegal immigrants — Prohibition — Public contracts for services — Definitions.
- 19-11-106. Contracting goals for service-disabled veterans — Definitions.

Cross References. Auditor of State, § 25-16-501 et seq.

Effective Dates. Acts 1993, No. 1224, § 12: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in

this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

19-11-101. Responsibility of disbursing officer — Maintenance of files by Office of State Procurement.

(a) The disbursing officer of each agency, board, commission, department, or institution shall be responsible for reviewing all invoices prepared by commercial printers or suppliers holding commercial contracts to make certain that the charges to the agency, board,

commission, department, or institution are proper under the terms of the contract.

(b) The Office of State Procurement shall maintain complete files that shall be open to public inspection on all commercial term and one-time contracts. The files shall contain:

- (1) A copy of the contract;
- (2) A list of all printing or duplicating done or commodities ordered, as well as the name of the invoiced agency; and
- (3) A copy of all correspondence regarding the contract or jobs performed thereunder.

History. Acts 1993, No. 1224, § 5; § 6. The former section was derived from 2007, No. 478, § 1. Acts 1981, No. 600, § 30; A.S.A. 1947,

Publisher's Notes. Former § 19-11-101 was repealed by Acts 1993, No. 1224, § 14-295.

19-11-102. Use of soybean ink in state printing.

Notwithstanding any law, rule, or regulation to the contrary, all printing which is chargeable to or which is paid for with funds appropriated wholly or in part by the state, or any state department, division, bureau, board, commission, or agency, shall be printed in soybean ink; provided, however, that the soybean ink is comparable in price to other inks, and that it is equally suitable for use.

History. Acts 1991, No. 630, § 1.

Publisher's Notes. Former § 19-11-102, concerning consulting contracts with state agencies, was repealed by Acts 1987,

No. 536, § 1. The former section was derived from Acts 1981, No. 600, § 30; A.S.A. 1947, § 14-295.

19-11-103. Penalty for violation of law.

Any person who is found by a court of law to have knowingly violated any state law in conjunction with the performance or acquisition of a contract with the state shall be ineligible to contract with the state for a period of three (3) years.

History. Acts 1997, No. 1155, § 1.

19-11-104. Equal opportunity policy.

(a) The purpose of this section is to require any entity or person bidding on a state contract, responding to a request for proposals regarding a state contract, responding to a request for qualifications regarding a state contract, or negotiating a contract with the state for professional or consulting services to submit to the Office of State Procurement the most current equal opportunity policy of the entity or person.

(b) The office and a state agency shall require a copy of the most current equal opportunity policy of an entity or person to be filed with the office or state agency for public inspection as a condition precedent to:

(1) Accepting a letter of intent, bid, proposal, or statement of qualification with regard to a state contract from the entity or person; or

(2) Entering negotiations with the entity or person for a professional or consulting services contract with the state.

History. Acts 2005, No. 2157, § 1.

19-11-105. Illegal immigrants — Prohibition — Public contracts for services — Definitions.

(a) As used in this section:

(1) “Contractor” means a person having a public contract with a state agency for professional services, technical and general services, or any category of construction in which the total dollar value of the contract is twenty-five thousand dollars (\$25,000) or greater;

(2) “Exempt agency” means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(3) “Illegal immigrant” means any person not a citizen of the United States who has:

(A) Entered the United States in violation of the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., or regulations issued under the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.;

(B) Legally entered the United States but without the right to be employed in the United States; or

(C) Legally entered the United States subject to a time limit but has remained illegally after expiration of the time limit;

(4) “Professional services contract” means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary;

(5) “Public contract for services” means any type of agreement between a state agency and a contractor for the procurement of services and all categories of construction with a state agency in which the total dollar value of that contract is twenty-five thousand dollars (\$25,000) or greater;

(6)(A) “State agency” means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the

state supported by appropriation of state or federal funds, except an exempt agency under subdivision (a)(7)(B) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54; and

(7)(A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including without limitation work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.

(b) No state agency may enter into or renew a public contract for services with a contractor who knows that the contractor or a subcontractor employs or contracts with an illegal immigrant to perform work under the contract.

(c) Before executing a public contract, each prospective contractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the contractor at the time of the certification does not employ or contract with an illegal immigrant.

(d)(1) If a contractor violates this section, the state shall require the contractor to remedy the violation within sixty (60) days.

(2)(A) If the contractor does not remedy the violation within the sixty (60) days specified under subdivision (d)(1) of this section, the state shall terminate the contract for breach of the contract.

(B) If the contract is terminated under subdivision (d)(2)(A) of this section, the contractor shall be liable to the state for actual damages.

(e)(1)(A) If a contractor uses a subcontractor at the time of certification, the subcontractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the subcontractor at that time of certification does not employ or contract with an illegal immigrant.

(B) A subcontractor shall submit the certification required under subdivision (e)(1)(A) of this section within thirty (30) days after the execution of the subcontract.

(2) The contractor shall maintain on file the certification of the subcontractor throughout the duration of the term of the contract.

(3) If the contractor learns that a subcontractor is in violation of this section, the contractor may terminate the contract with the subcontractor, and the termination of the contract for a violation of this section shall not be considered a breach of the contract by the contractor and subcontractor.

History. Acts 2007, No. 157, § 1; 2009, No. 251, § 27.

19-11-106. Contracting goals for service-disabled veterans — Definitions.

(a) As used in this section:

(1) “Service-disabled veteran” means any individual who:

(A) Is at least thirty-percent (30%) disabled as a result of military service and is designated as such by the United States Department of Veterans Affairs; and

(B) Has been a resident of the State of Arkansas for at least two (2) years; and

(2) “Business of a service-disabled veteran” means a business that:

(A) Not less than fifty-one percent (51%) of which is owned by one (1) or more service-disabled veterans;

(B) The management and daily business operations of which are controlled by one (1) or more service-disabled veterans; and

(C) Has been certified as a business of a service-disabled veteran by the Division of Minority Business Enterprise of the Arkansas Economic Development Commission under the Minority Business Economic Development Act, § 15-4-301 et seq.

(b)(1) All state agencies shall attempt to ensure that five percent (5%) of the total amount expended in state-funded and state-directed public construction programs and in the purchase of goods and services for the state each fiscal year is paid to businesses of service-disabled veterans.

(2) This subsection shall not be construed as establishing a preference in contracting with businesses of service-disabled veterans.

History. Acts 2011, No. 882, § 1.

SUBCHAPTER 2 — ARKANSAS PROCUREMENT LAW

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Cross References. Restrictions on expenditures by institutions of higher education, § 6-63-301 et seq.

Effective Dates. Acts 1979, No. 482, § 79: effective at 12:01 a.m., July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that the proper and effective management and control of State finances requires that the provisions of this Act be implemented at the commencement of the next biennium and this Act being necessary for the preservation of the public peace, health and safety,

an emergency is hereby declared to exist and this Act shall become effective at 12:01 a.m. on July 1, 1979."

Acts 1981, No. 240, § 6: Feb. 27, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Department of Correction should be allowed to have its own purchasing agent for the sole purpose of procuring perishable food items; that the law regarding the letting of contracts for the lease and purchase of farm machinery and equipment by the Board of Correction is in need of revision; and that this Act is

immediately necessary to accomplish such purposes. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 600, § 32: Mar. 20, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Purchasing Law is in immediate need of revision to bring the same into compliance with court orders, and that this Act is designed to make such needed revisions, and the immediate passage hereof is necessary to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 517, § 4: Mar. 17, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Purchasing Law is in immediate need of revision to bring the administrative structure and reporting requirements of the Office of State Purchasing into organizational conformity with the other offices within the Department of Finance and Administration for the purpose of proper and effective management and control of the Department of Finance and Administration, and that this Act is designed to make such needed revisions, and the immediate passage hereof is necessary to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 760, § 4: Mar. 24, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas firms engaged in the printing, stationery and office supply business are unnecessarily discriminated against by the omission of such firms from the benefits of the Arkansas Preference Law. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 983, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State Purchasing Law currently contains no exemption for medical items used for the treatment and diagnosis of patients and purchased through a group purchasing entity; that considerable savings can be effected in many instances if such medical items are exempt from the State Purchasing Law; that this Act is designed to provide such exemption and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 57, § 4: Feb. 14, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state purchasing law apparently does not now apply to non-profit corporations under contract with the Department of Human Services to provide services to people with developmental disabilities; that the functions performed by these non-profit corporations are a governmental function and therefore those entities should be included in a definition of 'state agencies' for purposes of the state purchasing law; that this Act accomplishes the same; and that in order to make the state purchasing law applicable to those non-profit corporations as soon as possible, that this Act should be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 45, § 4: Nov. 14, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present bidder's preference law requires the Arkansas bidder to have paid Arkansas unemployment taxes; that some employers are exempt from paying unemployment taxes and therefore the requirement should not apply in those instances; that this Act will change the bidder's preference law to not disqualify an Arkansas firm who does not pay unemployment taxes because of being exempt therefrom; and that this Act should go into effect

immediately in order to correct the inequity as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 263, § 5: Feb. 26, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law provides that in public purchasing of commodities, Arkansas bidders who have an established business in and are paying state and local taxes in Arkansas, are to be given a five percent preference over out-of-state bidders who maintain no established business facility in the state and who are not paying state and local taxes in Arkansas; that this law which was obviously enacted to benefit Arkansas businesses now appears to be having the opposite effect due to the fact that some states have reciprocated by penalizing Arkansas businesses which bid on public contracts for commodities in those states, and some state agencies simply refuse to do business with Arkansas businesses because of the Arkansas preference law; and that it is in the overall best interest of Arkansas businesses that this preference be abolished as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 678, § 6: Mar. 24, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law authorizing a bidders preference for the purchase of commodities by public agencies should be narrowed; that this act results in narrowing that law; that a substantial amount of commodity purchasing will occur within the next three (3) months; and that this act should go into effect immediately in order that its application will apply to purchases as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 912, § 5: Apr. 5, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state is hampered in the execution of its duties by the inability to use lease/purchase agreements to procure essential commodities and services. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 179, § 38: Feb. 17, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Public Health, Welfare, and Labor and in its place established the House Interim Committee and Senate Interim Committee on Public Health, Welfare, and Labor; that various sections of the Arkansas Code refer to the Joint Interim Committee on Public Health, Welfare, and Labor and should be corrected to refer to the House and Senate Interim Committees on Public Health, Welfare, and Labor; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1237, § 49: Apr. 2, 2001. Emergency clause provided: "It is found and determined by the General Assembly that recent advances in technology require that the State Purchasing law be amended to allow electronic procurement and the use of electronic media in the bidding process. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is

neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1309, § 2 Apr. 5, 2001. Emergency clause provided: "It is found and determined by the General Assembly that this measure is necessary to clarify the state's purchasing law and to prevent disruptions in the orderly conduct of business by agencies of the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1211, § 3: Apr. 7, 2009. Emergency clause provided "It is found and determined by the General Assembly of the State of Arkansas that a partial equity ownership agreement is fundamentally and substantially different than a state contract for commodities, technical and general services, and professional and consultant services that are procured under the Arkansas Procurement Law § 19-11-201 et seq., and other contracts currently procured under Arkansas Code, Title 19, Chapter 11; that frugal investment practices often require a minimum duration of ten (10) years or more for the interest to mature; that a partial equity ownership agreement is necessary for certain size trust funds to fulfill the requirements of the prudent investor rule; that a partial equity ownership agreement should be subject to a procurement process that is unique to the partial equity ownership agreement; that currently there is a lack of clarification in the law regarding a proper review process for partial equity ownership agreements; and that this new section will resolve the issue with the intent to preserve the review process for a partial equity ownership agreement and allow flexibility in the review for a narrow and clearly defined exception. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013

have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Acts 2015, No. 147, § 4: Feb. 23, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that an immediate need exists to allow municipal utilities to fulfill their duties to purchase commodities and enter into legal and enforceable contracts for services to maintain and operate utility facilities on federal military installations within the state; that the window of opportunity for municipalities to enter into third party contracts for maintaining and operating utility facilities serving the utility needs of federal military installations is narrow; that the effective operation of federal military installations in the state depends on the maintenance and operation of these utility facilities; and that this act is immediately necessary because national security and the general welfare, material well-being, and economic stability of the citizens of this state will be furthered by this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an

emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 557, § 9: Aug. 1, 2015.

Acts 2016, No. 140, § 17: July 1, 2016. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2016 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2016 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2016.”

Acts 2016, No. 141, § 15: July 1, 2016. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2016 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2016 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2016.”

19-11-201. Title.

This subchapter shall be referred to as the “Arkansas Procurement Law”.

History. Acts 1979, No. 482, § 1; A.S.A. 1947, § 14-233; Acts 2001, No. 1237, § 1.

Publisher’s Notes. Acts 1979, No. 482, § 7, provided that this subchapter applies only to contracts solicited or entered into after July 1, 1979, unless the parties agree to its applicability to a contract entered into prior to this date.

CASE NOTES

Cited: Milligan v. Burrow, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

19-11-202. Purposes and policies.

The underlying purposes and policies of this subchapter are to:

- (1) Simplify, clarify, and modernize the law governing procurement by this state;
- (2) Permit the continued development of procurement policies and practices;
- (3) Provide for increased public confidence in the procedures followed in public procurement;
- (4) Ensure the fair and equitable treatment of all persons who deal with the procurement system of this state;
- (5) Provide increased economy in state procurement activities by fostering effective competition; and
- (6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

History. Acts 1979, No. 482, § 3; A.S.A. 1947, § 14-233.2.

19-11-203. Definitions generally.

As used in this subchapter:

- (1)(A) “Agency procurement official” means any person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter and the regulations promulgated under it.
- (B) “Agency procurement official” also includes an authorized representative acting within the limits of authority;
- (2) “Business” means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;
- (3)(A) “Capital improvement” means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency.

(B) “Capital improvement” shall not include construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission, nor shall “capital improvement” include any building, facility, plant, structure, or other improvement constructed by, or in behalf of, the Arkansas State Highway and Transportation Department or the State Highway Commission;

(4) “Commodities” means all property, including, but not limited to, equipment, printing, stationery, supplies, and insurance, but excluding leases on real property, real property, or a permanent interest in real property, exempt commodities and services, and capital improvements;

(5)(A) “Contract” means all types of state agreements, regardless of what they may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

(B)(i) “Contract” includes awards and notices of award, contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type, contracts providing for the issuance of job or task orders, leases, letter contracts, and purchase orders.

(ii) “Contract” also includes supplemental agreements with respect to any of these items.

(iii) “Contract” does not include a partial equity ownership agreement as defined under § 19-11-1301 et seq.;

(6) “Contract modification” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract;

(7) “Contractor” means any person having a contract with a state agency;

(8) “Data” means recorded information, regardless of form or characteristic;

(9) “Debarment” means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;

(10) “Designee” means a duly authorized representative of a person holding a superior position;

(11) “Electronic” means electrical, digital, magnetic, optical, or any other similar technology;

(12) “Employee” means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any agency;

(13) “Exempt agencies” means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(14) "Exempt commodities and services" means:

(A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C)(i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.

(ii) A report shall be filed annually with Arkansas Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

(D)(i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.

(ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;

(E)(i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

(ii) These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt that are to be furnished by the agency under any such contract;

(F) Contracts awarded by the Arkansas State Highway and Transportation Department for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

(G)(i) Farm products procured or sold by a state agency having an agency procurement official.

(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;

(H) Fees, including medical fees and physician fees;

(I) Foster care maintenance services provided by foster family homes approved by the Division of Children and Family Services of the Department of Human Services for children whose placement and care are the responsibility of the Division of Children and Family Services of the Department of Human Services;

(J) Freight and storage charges and demurrage;

(K) Licenses required prior to performance of services;

(L)(i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.

(ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;

(M) Livestock procured for breeding, research, or experimental purposes;

(N) Maintenance on office machines and technical equipment;

(O) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic

devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;

(P) Membership in professional, trade, and other similar associations;

(Q) Perishable foodstuffs for immediate use or processing;

(R) Postage;

(S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;

(T) Services of visiting speakers, lecturers, and performing artists;

(U) Taxes;

(V) Travel expense items such as room and board and transportation charges;

(W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(X) Works of art for museum and public display;

(Y) Capital improvements valued at less than twenty thousand dollars (\$20,000), subject to minimum standards and criteria of the Building Authority Division of the Department of Finance and Administration;

(Z) Services related to work force development, incumbent work force training, or specialized business or industry training;

(AA) The following commodities and services relating to proprietary software after the initial procurement:

(i) Technical support;

(ii) Renewals;

(iii) Additional copies; and

(iv) License upgrades;

(BB) Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale;

(CC) Commodities purchased by the Department of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals; and

(DD) Repair services for hidden or unknown damages to machinery already purchased;

(15)(A)(i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law.

(ii) "Grant" does not include an award the primary purpose of which is to procure an end product, whether in the form of commodities or services.

(B) A contract resulting from such an award is not a grant but a procurement contract;

(16) "May" means the permissive;

(17) "Paper product" means any item manufactured from paper or paperboard;

(18) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(19) "Political subdivisions" means counties, municipalities, and school districts;

(20)(A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;

(21) "Procurement agency" means any state agency that is authorized by this subchapter, by implementing regulations, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22)(A) "Procurement agent" means any person authorized by a state agency not having an agency procurement official to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter.

(B) "Procurement agent" also includes an authorized representative acting within the limits of authority;

(23)(A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling.

(B) Without necessarily being limited thereto, "public funds" does not include grants, donations, research contracts, and revenues derived from self-supporting enterprises which are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury;

(24) "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and websites designated by the State of Arkansas and maintained for that purpose;

(25)(A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.

(B) "Purchase request" may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written or electronic determination and finding required by this subchapter;

(26) "Recycled paper" means paper which contains recycled fiber in a proportion specified by the State Procurement Director;

(27)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Building Authority Division of the Department of Finance and Administration or higher education;

(28) "Shall" means the imperative;

(29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is:

(A) Unique to the person using it;

(B) Capable of verification;

(C) Under the sole control of the person using it; and

(D) Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

(30)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

(31)(A) "State contract" means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.

(B) The contract may apply to all or part of the state;

(32) "State Procurement Director" means the person holding the position created in § 19-11-216, as the head of the Office of State Procurement;

(33) "Suspension" means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and any legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance, which may lead to debarment;

(34)(A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including, but not limited to, work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.;

(35) "Using agency" means any state agency which utilizes any commodities or services purchased under this subchapter; and

(36) "Written" or "in writing" means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

History. Acts 1979, No. 482, § 12; 1981, No. 600, §§ 1-5; A.S.A. 1947, § 14-240; Acts 1987, No. 983, § 1; 1991, No. 128, § 1; 1991, No. 749, § 2; 1991, No. 1018, § 1; 1999, No. 1398, § 27; 2001, No. 961, § 7; 2001 No. 1237, § 2; 2001 No. 1568, § 1; 2003, No. 487, § 1; 2003, No. 1315, §§ 4-7; 2005, No. 1680, § 1; 2007, No. 478, § 2; 2009, No. 251, § 28; 2009, No. 605, § 20; 2009, No. 606, § 20; 2009, No. 1211, § 1; 2011, No. 794, § 1; 2013,

No. 453, § 1; 2015, No. 218, § 21; 2015, No. 557, § 3.

Amendments. The 2011 amendment added (14)(BB) [now (14)(AA)].

The 2013 amendment added (14)(CC) through (14)(EE) [now (14)(BB) through (14)(DD)].

The 2015 amendment by No. 218 repealed former (14)(AA).

The 2015 amendment by No. 557 deleted the last sentence in (23)(A).

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Environmental Law, 14 U. Ark. Little Rock L.J. 779.

19-11-204. Definitions concerning source selection and contract formation.

As used in this subchapter:

(1) "Competitive bidding" means the same as defined in § 19-11-234(a);

(2) "Competitive sealed bidding" means the same as defined in § 19-11-229(a);

(3) "Competitive sealed proposals" means the same as defined in § 19-11-230(a);

(4) "Emergency procurement" means the acquisition of commodities or services, which if not immediately initiated, will endanger human life or health, state property, or the functional capability of a state agency;

(5) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by a manufacturer or contractor;

(B) Is either published or otherwise available for inspection by customers; and

(C) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the commodities or services involved;

(6) "Invitation for bids" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in § 19-11-229, which refers to competitive sealed bidding;

(7) “Multiple award contracts” means a method of procurement whereby an indefinite quantity contract is awarded to more than one (1) supplier for furnishing a like item or category of items;

(8) “Purchase description” means specifications or any other document or electronic media describing the commodities or services to be procured;

(9) “Request for proposals” means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in § 19-11-230, which refers to competitive sealed proposals, § 19-11-231, which refers to small procurements, § 19-11-232, which refers to proprietary or sole source procurements, § 19-11-233, which refers to emergency procurements, or § 19-11-234, which refers to competitive bidding;

(10)(A) “Request for qualifications” means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing.

(B) Other than as provided in § 19-11-801 et seq., the request for qualifications process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted;

(11) “Responsible bidder or offeror” means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance;

(12) “Responsive bidder” means a person who has submitted a bid under § 19-11-229, which refers to competitive sealed bidding, which conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation; and

(13)(A)(i) “Small procurements” means any procurement not exceeding a purchase price of ten thousand dollars (\$10,000). Small purchases may be procured without seeking competitive bids or competitive sealed bids.

(ii) However, competition should be used to the maximum extent practicable.

(B) Items under state contract are excluded.

History. Acts 1979, No. 482, § 27; 1981, No. 600, § 11; A.S.A. 1947, § 14-252; Acts 1987, No. 540, § 1; 1995, No. 317, § 1; 1995, No. 340, § 1; 1995, No. 428, § 1; 1995, No. 507, § 1; 2001, No. 1237, § 3; 2007, No. 478, § 3; 2013, No. 1189, § 1.

Amendments. The 2013 amendment substituted “ten thousand dollars (\$10,000)” for “five thousand dollars (\$5,000)” in (13)(A)(i).

19-11-205. Definitions concerning commodity management.

As used in this subchapter:

(1) “Commodities” means, for purposes of this section and §§ 19-11-242 and 19-11-243, commodities owned by the state. See § 19-11-203, which refers to commodities;

(2) "Excess commodities" means any commodity, other than expendable commodities, having a remaining useful life but which the using agency in possession of the commodity has determined is no longer required by such agency;

(3) "Expendable commodities" means all tangible commodities other than nonexpendable commodities;

(4) "Nonexpendable commodities" means all tangible commodities having an original acquisition cost of more than two thousand five hundred dollars (\$2,500) per unit and a useful life of more than one (1) year; and

(5) "Surplus commodities" means any commodities, other than expendable commodities, no longer having any use to the state. This definition includes obsolete commodities, scrap materials, and nonexpendable commodities that have completed their useful life cycle.

History. Acts 1979, No. 482, § 54;
A.S.A. 1947, § 14-275; Acts 2003, No. 487,
§ 2.

19-11-206. Definitions concerning intergovernmental relations.

As used in this subchapter:

(1) "Cooperative procurement" means procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity;

(2)(A) "External procurement activity" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit.

(B) An agency of the federal government is an external procurement activity;

(3) "Local public procurement unit" means:

(A) Any county, city, town, state agency, and any other subdivision of the state or public agency thereof;

(B) Any fire protection district;

(C) Any regional water distribution district;

(D) Any rural development authority;

(E) Any public authority;

(F) Any public educational, health, or other institution;

(G) Any nonprofit corporation during the time that it contracts with the Department of Human Services to provide services to individuals with developmental disabilities or for transportation services, so long as the contract exceeds seventy-five thousand dollars (\$75,000) per year;

(H) Any nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area; and

(I) To the extent not prohibited by law, any other entity that expends public funds for the acquisition or leasing of commodities and services;

(4) “Public procurement unit” means either a local public procurement unit or a state public procurement unit; and

(5) “State public procurement unit” means the Office of State Procurement and any other procurement agency of this state.

History. Acts 1979, No. 482, § 64; § 1; 1997, No. 872, § 1; 1999, No. 41, § 1; A.S.A. 1947, § 14-281; Acts 1989, No. 57, 2001, No. 1237, § 4; 2007, No. 478, § 4.

19-11-207. Applicability.

(a) This subchapter shall apply to every expenditure of public funds by this state, acting through a state agency as defined in § 19-11-203, under any contract. This subchapter shall not apply to either grants or contracts between the state and its political subdivisions or other governments, except as provided in §§ 19-11-206 and 19-11-249 — 19-11-258. This subchapter also shall apply to the disposal of state commodities. This subchapter shall not apply to contracts between agencies, except as provided in §§ 19-11-206 and 19-11-249 — 19-11-258.

(b) The provisions of this subchapter shall not preclude the acceptance of gifts and donations in the manner authorized by law.

History. Acts 1979, No. 482, § 9; A.S.A. 1947, § 14-237.2.

19-11-208. Exemptions.

Commodities and services need not be procured through the Office of State Procurement, if procured by the out-of-state offices of state agencies for that out-of-state office’s use but shall, nevertheless, be procured subject to the requirements of this subchapter and the state procurement regulations.

History. Acts 1979, No. 482, § 18; 1981, No. 600, § 6; A.S.A. 1947, § 14-246; Acts 2001, No. 1237, § 5.

19-11-209. Construction.

This subchapter shall be construed and applied to promote its underlying purposes and policies.

History. Acts 1979, No. 482, § 2; A.S.A. 1947, § 14-233.1.

19-11-210. Operation of other laws.

Unless displaced by the particular provisions of this subchapter, the principles of law and equity, including the Uniform Commercial Code, § 4-1-101 et seq., of this state, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement its provisions.

History. Acts 1979, No. 482, § 5; A.S.A. 1947, § 14-235.

19-11-211. Obligation of “good faith”.

Every contract or duty within this subchapter imposes an obligation of good faith in its performance or enforcement. “Good faith” means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

History. Acts 1979, No. 482, § 6; A.S.A. 1947, § 14-236.

19-11-212. Existing contracts.

The administration of contracts in existence on July 1, 1979, shall be the responsibility of the appropriate officials described in this subchapter.

History. Acts 1979, No. 482, § 8; A.S.A. 1947, § 14-237.1.

19-11-213. Federal assistance requirements.

If federal assistance requirements or federal contract requirements conflict with this subchapter or regulations promulgated under it, nothing in this subchapter or its regulations shall prevent a state agency or political subdivision from complying with the terms and conditions of the federal assistance requirements or the federal contract requirements.

History. Acts 1979, No. 482, § 10; A.S.A. 1947, § 14-238; Acts 2015, No. 147, § 1.

Amendments. The 2015 amendment substituted “If” for “In the event”, inserted

“or federal contract requirements”, deleted “the provisions of” preceding “this subchapter”, and added “or the federal contract requirements” at the end.

19-11-214. Determinations and findings.

Written determinations and findings required by this subchapter shall be retained in an official contract file by the Office of State Procurement or by the state agency administering the contract for a period of five (5) years.

History. Acts 1979, No. 482, § 11; A.S.A. 1947, § 14-239; Acts 2001, No. 1237, § 6.

19-11-215. Office of State Procurement.

(a) There is created within the Department of Finance and Administration an Office of State Procurement to be administered by the State Procurement Director.

(b)(1) The office shall be subject to the supervision and management of the Director of the Department of Finance and Administration.

(2) The rules and regulations authorized in this subchapter shall be approved by the Director of the Department of Finance and Administration prior to the filing of the rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1979, No. 482, § 13; A.S.A. 1947, § 14-241; Acts 2001, No. 1237, § 7.

Publisher's Notes. Acts 1979, No. 482, § 17, provided that all rights, etc., relat-

ing to procurement exercised by any state agency that did not have an agency purchasing official were transferred to the Office of State Purchasing, except as otherwise provided.

19-11-216. State Procurement Director.

(a)(1) The executive head of the Office of State Procurement is designated as the administrator of the Office of State Procurement, and as such, he or she shall be known and designated as the "State Procurement Director".

(2) The State Procurement Director shall be appointed by the Director of the Department of Finance and Administration.

(b) The State Procurement Director shall be at least thirty (30) years of age, of good moral character, and of demonstrated ability or capacity in the field of purchasing commodities and services.

History. Acts 1979, No. 482, § 14; Acts 2001, No. 1237, § 8; 2007, No. 478, 1983, No. 517, § 1; A.S.A. 1947, § 14-242; § 5.

19-11-217. Powers and duties of State Procurement Director.

(a) The State Procurement Director shall serve as the principal procurement officer of the state.

(b)(1) Except as otherwise provided in this subchapter and upon the approval of the Director of the Department of Finance and Administration, the State Procurement Director shall have the authority and responsibility to promulgate regulations consistent with this subchapter.

(2) In addition, consistent with the provisions of this subchapter, the State Procurement Director may adopt rules governing the internal procedures of the Office of State Procurement.

(c) Except as otherwise specifically provided in this subchapter, the State Procurement Director, within the limitations of this subchapter and the rules and regulations promulgated under authority of this subchapter:

(1) Shall procure or supervise the procurement of all commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract;

(2)(A) Shall develop and implement a plan for all state agencies acquiring vehicles that will reduce the overall annual petroleum

consumption of those state agencies by at least ten percent (10%) by January 1, 2009, through measures that include:

(i) The use of alternative fuels, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(ii) The acquisition of vehicles with higher fuel economy, such as a hybrid vehicle operating on electricity and gasoline or diesel or bio-diesel fuel; and

(iii) The substitution of cars for light trucks.

(B)(i) By January 30 of each year, the State Procurement Director shall submit to the Legislative Council his or her report evaluating the progress of the plan toward achieving the goal set in subdivision (c)(2)(A) of this section.

(ii) The report shall include:

(a) The number and type of alternative fueled vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005, procured;

(b) The total number of alternative fueled vehicles used by each state agency;

(c) The difference between the cost of the purchase, maintenance, and operation of alternative fueled vehicles and comparable conventionally fueled motor vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(d) An evaluation of the plan's success; and

(e) Suggestions for modifying the plan;

(3) Shall manage and establish internal procedures for the office;

(4) Shall sell, trade, or otherwise dispose of surplus commodities belonging to the state;

(5) May establish and maintain programs for the inspection, testing, and acceptance of commodities and services;

(6) Shall establish and manage a list of vendors desiring written notice of invitations for bid;

(7) May establish, by regulation, a fee for receiving a written or electronic notice of invitations for bid; and

(8) Shall ensure compliance with this subchapter and implementing regulations by reviewing and monitoring procurements conducted by any designee, department, agency, or official delegated authority under this subchapter.

History. Acts 1979, No. 482, § 15; 1018, § 2; 2001, No. 1237, § 9; 2005, No. A.S.A. 1947, § 14-243; Acts 1991, No. 2322, § 1.

19-11-218. Assistants and designees.

Subject to the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., the State Procurement Director may:

(1) Employ and supervise such assistants and other persons as may be necessary;

(2) Fix their compensation as provided by law; and

(3) Delegate authority to such designees or to any state agency as the director may deem appropriate, within the limitations of state law and the state procurement regulations.

History. Acts 1979, No. 482, § 16; A.S.A. 1947, § 14-244; Acts 2001, No. 1237, § 10; 2003, No. 487, § 3.

19-11-219. Legal counsel.

The Attorney General shall act as counsel for the State Procurement Director in preparation of necessary contracts and in all legal matters.

History. Acts 1979, No. 482, § 26; A.S.A. 1947, § 14-251.3; Acts 2001, No. 1237, § 11.

19-11-220. Agency procurement officials.

(a) In addition to any state agency authorized by regulation to have an agency procurement official, each of the following state agencies may elect to have such an official for commodities, technical and general services, and professional and consultant services, which are not within the exclusive jurisdiction of the State Procurement Director and which are not under state contract:

- (1) Arkansas State Highway and Transportation Department;
- (2) Arkansas State University-Beebe;
- (3) Arkansas State University;
- (4) Arkansas State University System;
- (5) Arkansas Tech University;
- (6) Henderson State University;
- (7) Southern Arkansas University;
- (8) University of Arkansas at Fayetteville;
- (9) University of Arkansas Fund entities;
- (10) University of Arkansas at Little Rock;
- (11) University of Arkansas at Monticello;
- (12) University of Arkansas at Pine Bluff;
- (13) University of Arkansas for Medical Sciences;
- (14) University of Central Arkansas;
- (15) Arkansas State University-Mountain Home;
- (16) Arkansas State University-Newport;
- (17) Black River Technical College;
- (18) Cossatot Community College of the University of Arkansas;
- (19) East Arkansas Community College;
- (20) National Park College;
- (21) Arkansas Northeastern College;
- (22) Arkansas State University Mid-South;
- (23) North Arkansas College;
- (24) Northwest Arkansas Community College;
- (25) College of The Ouachitas;
- (26) Ozarka College;

- (27) Phillips Community College of the University of Arkansas;
- (28) University of Arkansas Community College at Morrilton;
- (29) Pulaski Technical College;
- (30) Rich Mountain Community College;
- (31) SAU-Tech;
- (32) Southeast Arkansas College;
- (33) South Arkansas Community College;
- (34) University of Arkansas Community College at Batesville;
- (35) University of Arkansas Community College at Hope;
- (36) University of Arkansas at Fort Smith; and
- (37) Department of Higher Education.

(b)(1) Each official shall manage and establish internal procedures for the procurement office of the state agency authorized to have the official to ensure adequate administrative procedures and controls pursuant to law and the procurement regulations.

(2)(A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the Director of the Department of Finance and Administration that administrative procedures and controls are not adequate.

(B)(i) Such a determination shall result in notification by the Director of the Department of Finance and Administration of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the Director of the Department of Finance and Administration determines that the deficiencies have been corrected.

(c) Except for the promulgation by the State Procurement Director of rules and regulations authorized in this subchapter and the letting of state contracts, all rights and practices granted herein to the Office of State Procurement and the State Procurement Director are granted to an official in the administration of contracts for the state agency authorized to have the official.

(d) Nothing in this section is intended to prohibit a state agency from utilizing the Office of State Procurement in the same manner as state agencies not authorized to have officials.

History. Acts 1979, No. 482, § 19; 1981, No. 600, §§ 7, 8; A.S.A. 1947, § 14-247; Acts 1991, No. 1018, § 3; 2001, No. 1237, § 12; 2005, No. 1680, § 2; 2009, No. 605, § 21; 2009, No. 606, § 21; 2013, No. 1393, § 8; 2015, No. 218, § 22; 2016, No. 140, § 12; 2016, No. 141, § 12.

A.C.R.C. Notes. The operation of subsection (b) of this section was suspended by adoption of a self-insured fidelity bond program for state officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessa-

tion of coverage under that program. See § 21-2-703.

Amendments. The 2013 amendment substituted "College of The Ouachitas" for "Ouachita Technical College" in (a)(26) [now (a)(25)].

The 2015 amendment repealed former (a)(2).

The 2016 amendment by No. 140 substituted "Arkansas State University Mid-South" for "Mid-South Community College" in (a)(23) [now (a)(22)].

The 2016 amendment by No. 141 substituted "National Park College" for "Na-

tional Park Community College" in (a)(21)
[now (a)(20)].

19-11-221. Agency procurement official for Department of Correction.

(a) In addition to those agencies, institutions, and departments of state government enumerated in § 19-11-220 which may elect to have agency procurement officials for commodities, technical and general services, and professional and consultant services which are not within the exclusive jurisdiction of the State Procurement Director, which are not under state contract, and which are not procured in accordance with § 19-11-230, the Department of Correction and the Department of Community Correction may have such officials for the sole purpose of procuring perishable food items, who shall possess all powers, functions, and duties as authorized for agency procurement officials under this subchapter with respect to perishable food items only.

(b)(1) The officials of the Department of Correction and the Department of Community Correction shall have exclusive authority to procure perishable food items in accordance with applicable administrative procedures and controls established pursuant to this subchapter and the procurement regulations.

(2) Except as noted in this subsection and in subsection (c) of this section, the officials of the departments shall be subject to all other provisions and requirements of this subchapter and administrative procedures controls and procurement regulations provided in or promulgated pursuant to it.

(c)(1)(A) The Board of Corrections, annually, and at more frequent intervals if deemed necessary, shall make studies and determine whether it would be in the best interest of the management of the farm croplands at the farm units or at each of the separate farm units of the Department of Correction to provide for the lease of farm machinery and equipment, or certain items thereof, required for the production of farm crops, or whether it would be in the better interest of the Department of Correction to acquire such items of farm machinery and equipment by purchase.

(B)(i) Upon conclusion of the study, the board, by resolution adopted by a majority of the members of the board at a regular or special meeting, may authorize the agency procurement official for the Department of Correction to advertise for bids for the leasing of farm equipment or for the purchase of the items of farm equipment noted in the resolution.

(ii)(a) No lease of farm equipment shall be for more than two (2) years nor extend beyond June 30 of the fiscal biennium for which current funds have been appropriated for the operation of the Department of Correction.

(b) However, nothing in this section shall prohibit the lease from including provisions, terms, or conditions upon which the lease may be renewed for an additional period of time, not exceeding two (2) years, at the option of the board.

(2)(A) In the event the board determines to provide for the leasing of farm machinery or equipment necessary in the farming operations of the Department of Correction, the official of the Department of Correction shall be the exclusive purchasing agent for advertising of bids and awarding of contracts for the leases, subject to the approval of the Director of the Department of Correction and the board.

(B) In the advertising for bids and the awarding of contracts, the state laws, procurement procedures, and rules and regulations shall be complied with in awarding the contracts.

(C)(i) It shall not be mandatory upon the board to award the contract for the furnishing of farm machinery and equipment under a lease agreement to the lowest bidder, unless the board shall determine that the awarding of the contract to such bidder would be in the best interest of the farming operations of the Department of Correction.

(ii) In that event, the board may award the contract to the bidder whose bid proposal is deemed by the board to be in the better interest of the farming operations of the Department of Correction.

(D) In making this determination the board shall consider, but not be limited by, the following factors:

(i) The type of equipment to be furnished;

(ii) Compatibility of the equipment with the training and experience of the farm managers and employees of the Department of Correction and the experience and skills of the inmates who will be using the equipment;

(iii) Provisions contained in the bid proposal providing for maintenance, repair, and service and upkeep of the equipment during the lease period, availability of the service and repair facilities, and source of replacement or repair parts;

(iv) The age and condition of the equipment to be leased; and

(v) Such other factors as the board deems essential to performance under the contract and dependability and reliability of the equipment to be furnished during the period of the lease.

(3)(A)(i) In determining the items of farm machinery and equipment to be acquired by purchase, the board may designate, if the board determines it to be within the better interest of the management of farm croplands of the Department of Correction, those items of farm machinery and equipment to be purchased.

(ii) The board may restrict the bid to equipment produced by no fewer than two (2) manufacturers of each item of equipment.

(B) In making this determination, the board shall include, but not be limited to, a consideration of the following factors:

(i) The types of farm machinery equipment now being used by the Department of Correction and the experience gained by the Department of Correction in the use of the equipment for the purposes for which it is being purchased;

(ii) Availability of service and replacement and spare parts for the equipment;

(iii) Familiarity with the equipment of the employees or inmates responsible for the maintenance, repair, and upkeep thereof;

(iv) Compatibility of the farm machinery and equipment with repair and maintenance shop facilities available at the Department of Correction;

(v) Access to the dealer responsible for warranty service; and

(vi) Such additional factors as the board deems pertinent to the better interests of the management and operation of the farm crop lands of the Department of Correction.

(C)(i) All purchases of farm machinery and equipment shall be in accordance with the applicable state procurement laws and rules and regulations promulgated thereunder.

(ii) Contracts for the providing or furnishing of service, repair, and replacement parts of farm machinery and equipment may include provision for the furnishing of a stated quantity of replacement and spare parts to be stored at the Department of Correction or may include contract prices for major or standard items of service or for the furnishing of replacement and spare parts at stated prices, which shall be at a discount from the published dealer price list, as the board may deem in the best interest of the Department of Correction.

(iii) As an alternative, the board may elect to authorize the official to acquire replacement and spare parts on a need basis by following the applicable state procurement procedure in the acquisition of each item thereof as needed.

(4)(A) The official of the Department of Correction acting under the instruction and direction of the board and the Director of the Department of Correction shall be the sole and exclusive purchasing agent for the acquisition of farm machinery and equipment, whether by lease or purchase, and for the acquisition of repair services for farm machinery and equipment and repair and replacement parts therefor in the manner set forth in this section, and for the acquisition of those items covered in subsection (b) of this section.

(B) Nothing in this section shall prohibit the Department of Correction from requesting the State Procurement Director to make available the services of the Office of State Procurement in the acquisition of any item for which the official of the Department of Correction is the exclusive purchasing agent under this section.

History. Acts 1981, No. 240, §§ 1-3; A.S.A. 1947, §§ 14-247.1 — 14-247.3; Acts 1997, No. 351, § 1; 2001, No. 1237, § 13; 2005, No. 1680, § 3.

A.C.R.C. Notes. Acts 2001, No. 323, § 1, provided: “Legislative Intent. The General Assembly, in Act 549 of 1993, established the Arkansas Department of Community Punishment and delineated its purposes. Confusion in the public’s perception, with regard to the purposes of the department, exists and will persist

because of the inconsistency between the name of the department and its established purposes. The purpose of this act is to provide the department with a name that more accurately describes its role as an agency that is intended to fulfill the legislatively established purposes of supervision, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community and to provide its supervisory board with a name consistent with the depart-

ment's name change."

19-11-222. Exclusive jurisdiction over procurement — Definitions.

(a) The State Procurement Director shall have exclusive jurisdiction over the procurement of:

- (1) Items subject to Arkansas Constitution, Amendment 54;
- (2) Wholesale gasoline, oil, and related products;
- (3) Tires;
- (4) Passenger motor vehicles and trucks, except highway construction and highway maintenance equipment or any specialized type of equipment used in highway construction, except as otherwise provided in this subchapter;
- (5) Paper products;
- (6) New and used school buses for state agencies;
- (7) A purchasing card program and travel card program to include implementation and administration; and
- (8) An electronic commerce procurement solution to include planning and administration consistent with the established financial systems of the state.

(b) As used in this section:

- (1) "Printing" means the process of transferring images, by the use of standard industrial type printer ink, upon documents such as letterhead, envelopes, pamphlets, booklets, and forms;
- (2) "Stationery" means imprinted letterhead and envelopes used by the General Assembly and other departments of state government to identify an individual department, agency, board, commission, etc.; and
- (3) "Supplies" means paper and inks used to produce stationery.

History. Acts 1979, No. 482, § 20; § 4; 2001, No. 1237, § 14; 2001, No. 1309, 1981, No. 600, § 9; A.S.A. 1947, § 14-248; § 1; 2003, No. 487, § 4; 2005, No. 1680, Acts 1991, No. 749, § 3; 1993, No. 896, § 4.

19-11-223. Commodities, technical and general services, and professional and consultant services under state contract.

(a) In addition to establishing a state contract for those commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the State Procurement Director under § 19-11-222, the director may award a state contract for other commodities, technical and general services, and professional and consultant services in those instances when substantial savings may be effected by quantity purchasing of commodities, technical and general services, or professional and consultant services in general use by several state agencies.

(b)(1) State contracts shall be limited to those commodities on which, by virtue of custom or trade, substantial savings may be realized.

(2) In those instances in which substantial savings are not effected, the letting of state contracts for those commodities shall be discontinued.

(c)(1) Except for the procurement of commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the director, state agencies with agency procurement officials that can demonstrate a geographical or volume buying advantage need not participate in the state contract.

(2) However, if the commodities, technical and general services, or professional and consultant services obtained are procured at a substantially higher price during the same state contract period, that state agency must participate in the state contract upon expiration of the state agency's contract.

(d) Except as authorized in this section, all state agencies which require commodities, technical and general services, and professional and consultant services that are under state contract shall procure these commodities, technical and general services, and professional and consultant services exclusively under such contract.

(e) All contracts concerning commodities, technical and general services, and professional and consultant services shall disclose a projected total cost, including, but not limited to, expenditures that may be incurred under all available periods of extension if the extensions were executed.

History. Acts 1979, No. 482, § 21; 249; Acts 2001, No. 1237, §§ 15, 16; 2005, 1981, No. 600, § 10; A.S.A. 1947, § 14- No. 1680, § 5.

19-11-224. Interest and carrying charges.

State agencies, including exempt agencies, may enter into contracts which contemplate the payment of interest and late charges, but only when such late charges are incurred sixty (60) days after payment is due or carrying charges under such regulations as may be promulgated by the State Procurement Director.

History. Acts 1979, No. 482, § 22; A.S.A. 1947, § 14-250; Acts 1997, No. 1066, § 2; 2001, No. 1237, § 17.

19-11-225. Regulations.

(a) Regulations shall be promulgated by the State Procurement Director in accordance with the applicable provisions of this subchapter and of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) No regulation shall change any commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of the regulation.

(c)(1) No clause which is required by regulation to be included shall be considered to be incorporated by operation of law in any state

contract without the consent of both parties to the contract to the incorporation.

(2) The parties to the contract may give such consent to incorporation by reference at any time after the contract has been entered into and without the necessity of consideration passing to either party.

History. Acts 1979, No. 482, § 23; A.S.A. 1947, § 14-251; Acts 2001, No. 1237, § 18.

19-11-226. Recommendations.

(a) The State Procurement Director shall maintain a close and cooperative relationship with the using agencies.

(b)(1) The State Procurement Director shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to matters affecting the using agency.

(2) At any time, any using agency may make recommendations to the State Procurement Director, and the State Procurement Director may make recommendations to any using agency.

(3) The Director of the Department of Finance and Administration may make recommendations to the State Procurement Director.

History. Acts 1979, No. 482, § 24; A.S.A. 1947, § 14-251.1; Acts 2001, No. 1237, § 19.

19-11-227. Statistical data.

The State Procurement Director shall cooperate with the Office of Budget of the Department of Finance and Administration and the Office of Accounting of the Department of Finance and Administration in the preparation of statistical data concerning the procurement and disposition of all commodities and services, unless otherwise provided in this subchapter.

History. Acts 1979, No. 482, § 25; A.S.A. 1947, § 14-251.2; Acts 2001, No. 1237, § 20.

19-11-228. Methods of source selection.

Unless otherwise authorized by law, all contracts shall be awarded by competitive sealed bidding, pursuant to § 19-11-229, which refers to competitive sealed bidding, except as provided in:

- (1) Section 19-11-230, which refers to competitive sealed proposals;
- (2) Section 19-11-231, which refers to small procurements;
- (3) Section 19-11-232, which refers to proprietary or sole source procurements;
- (4) Section 19-11-233, which refers to emergency procurements;
- (5) Section 19-11-234, which refers to competitive bidding;
- (6) Section 19-11-262, which refers to multiple award contracts; or

(7) Section 19-11-263, which refers to special procurements.

History. Acts 1979, No. 482, § 28; 253; Acts 1995, No. 428, § 2; 1995, No. 1981, No. 600, § 12; A.S.A. 1947, § 14- 507, § 2; 2001, No. 1237, § 21.

19-11-229. Competitive sealed bidding.

(a) “Competitive sealed bidding” means a method of procurement which requires:

(1) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;

(2) Public, contemporaneous opening of bids at a predesignated time and place;

(3) Unconditional acceptance of a bid without alteration or correction, except as authorized in §§ 19-11-204 and 19-11-228 — 19-11-240;

(4) Award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids; and

(5) Public notice.

(b)(1) Contracts exceeding an estimated purchase price of fifty thousand dollars (\$50,000) shall be awarded by competitive sealed bidding unless a determination is made in writing by the agency procurement official or the State Procurement Director that this method is not practicable and advantageous and specifically states the reasons that this method is not practicable and advantageous.

(2) The director may provide by regulation that it is not practicable to procure specified types of commodities, technical and general services, or professional and consultant services by competitive sealed bidding.

(3) Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(A) Purchase descriptions are suitable for award on the basis of the lowest evaluated bid price; and

(B) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.

(c) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced technical proposals to be followed by an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation.

(d)(1) Notice inviting bids shall be given not fewer than five (5) calendar days nor more than thirty (30) calendar days preceding the date for the opening of bids by publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or posting by electronic media, but in all instances, adequate notice shall be given.

(2)(A) The notice shall include a general description of the commodities, technical and general services, or professional and consultant

services to be procured and shall state where invitations for bid may be obtained.

(B) The notice also shall state the date, time, and place of bid opening.

(e) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

(f)(1)(A) Bids shall be evaluated based on the requirements set forth in the invitation for bids.

(B) These requirements may include criteria to determine acceptability such as:

(i) Inspection;

(ii) Testing;

(iii) Quality;

(iv) Workmanship;

(v) Delivery;

(vi) Past performance; and

(vii) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.

(2)(A) The invitation for bids shall set forth the evaluation criteria to be used.

(B) No criteria may be used in bid evaluation that were not set forth in the invitation for bids.

(g)(1) Correction of patent or provable errors in bids that do not prejudice other bidders or withdrawal of bids may be allowed only to the extent permitted under regulations promulgated by the director and upon written approval of the Attorney General or a designee of such officer.

(2) No award shall be made on the basis of a corrected bid, if the corrected bid exceeds the next lowest bid of a responsible bidder.

(h)(1) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(2) In the event all bids exceed available funds as certified by the appropriate fiscal officer in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, the director or the head of a procurement agency may negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(3) All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.

(i) An invitation for bid may be cancelled or any or all bids may be rejected in writing by the director or the agency procurement official.

History. Acts 1979, No. 482, § 29; § 14-254; Acts 1987, No. 540, § 2; 1995, 1981, No. 600, §§ 13-16; A.S.A. 1947, No. 317, § 2; 1995, No. 340, § 2; 2001, No.

1237, § 22; 2003, No. 487, § 5; 2005, No. 1680, § 6; 2013, No. 1189, § 2.

Amendments. The 2013 amendment, in (b)(1), substituted “fifty thousand dollars (\$50,000)” for “twenty-five thousand

dollars (\$25,000)” and deleted “of the Office of State Procurement of the Department of Finance and Administration” following “State Procurement Director”.

19-11-230. Competitive sealed proposals — Definition.

(a) **DEFINITION.** “Competitive sealed proposals” means a method of procurement which involves, but is not limited to:

- (1) Solicitation of proposals through a request for proposals;
- (2) Submission of cost or pricing data from the offeror where required;
- (3) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award; and

(4) An award made to the responsible offeror whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the request for proposals.

(b) When the use of competitive sealed bidding is not practicable and advantageous, a contract may be awarded by competitive sealed proposals.

(c) Public notice of the request for proposals shall be given in the same manner as provided in § 19-11-229(d), which refers to public notice of competitive sealed bidding.

(d) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(e)(1) As provided in the request for proposals and under regulations, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

(2) Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

(3) In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f)(1) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration price, the evaluation factors set forth in the request for proposals, and the results of any discussions conducted with responsible offerors.

(2) No other factors or criteria shall be used in the evaluation.

(g) A competitive sealed proposal may be cancelled or any or all proposals may be rejected in writing by the State Procurement Director or the agency procurement official.

History. Acts 1979, No. 482, § 30; § 14-255; Acts 2001, No. 1237, § 23; 2007, 1981, No. 600, §§ 17-20; A.S.A. 1947, No. 478, § 6.

19-11-231. Small procurements.

(a) Any procurement not exceeding the amount under § 19-11-204(13), which refers to small procurements, may be made in accordance with small procurement procedures promulgated by the State Procurement Director.

(b) However, procurement requirements shall not be artificially divided so as to constitute a small procurement under this section.

History. Acts 1979, No. 482, § 32; 1981, No. 600, § 22; A.S.A. 1947, § 14-257; Acts 2001, No. 1237, § 24.

19-11-232. Proprietary or sole source procurements.

(a) Under regulations promulgated under this subchapter, a contract may be awarded for a required or designated commodity or service to a sole or mandatory supplier when the State Procurement Director, the head of a procurement agency, or a designee of either officer above the level of agency procurement official determines in writing that it is not practicable to use other than the required or designated commodity or service.

(b) Unless a written determination is made that there is only one (1) source for the required or designated commodity or service, efforts shall be made to obtain price competition.

History. Acts 1979, No. 482, § 33; A.S.A. 1947, § 14-258; Acts 2001, No. 1237, § 25.

19-11-233. Emergency procurements.

The State Procurement Director, the head of a procurement agency, or a designee of either officer may make or authorize others to make emergency procurements as defined in § 19-11-204(4) and in accordance with regulations promulgated by the director.

History. Acts 1979, No. 482, § 34; 1981, No. 600, § 23; A.S.A. 1947, § 14-259; Acts 2001, No. 1237, § 26.

19-11-234. Competitive bidding.

(a)(1) Competitive bidding is a method of procurement which requires obtaining bids by:

- (A) Direct mail request to prospective bidders and obtaining written bids;
- (B) Telephone;
- (C) Telegraph;
- (D) Written form; or
- (E) Electronic media.

(2) A competitive bid form authorized by the State Procurement Director must be completed.

(3) If three (3) competitive bids are not obtained on purchases when bids are required, the form must show the names of at least three (3) firms contacted in attempting to obtain competition or show the reason three (3) firms were not contacted.

(4)(A) Only firms which sell the type of commodity or service to be procured shall be contacted.

(B) The purchase procedures outlined in this section shall not apply to commodities, technical and general services, and professional and consultant services under state contract.

(b)(1) Contracts in which the purchase price exceeds ten thousand dollars (\$10,000) and is less than or equal to fifty thousand dollars (\$50,000) may be awarded by use of competitive bidding procedures.

(2) However, in any such instances, competitive sealed bidding is permitted.

(c)(1)(A) All procurements shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements, criteria, and specifications.

(B) Delivery time required must be reasonable and consonant with current industry norms.

(2) Complete justification must be given if award is made to other than the low bidder.

(d) Repeated small quantity procurements to circumvent the competitive bid limits or failure to obtain competitive bids without justification shall constitute a violation of these procedures and shall result in withdrawal of the state agency's competitive bid privileges.

History. Acts 1979, No. 482, § 35; 1981, No. 600, § 24; A.S.A. 1947, § 14-260; Acts 1991, No. 1018, §§ 4, 5; 1995, No. 317, §§ 3, 4; 1995, No. 340, §§ 3, 4; 2001, No. 1237, § 27; 2003, No. 487, § 6; 2005, No. 1680, § 7; 2013, No. 1189, § 3.

Amendments. The 2013 amendment substituted "ten thousand dollars (\$10,000)" for "five thousand dollars (\$5,000)" and substituted "fifty thousand dollars (\$50,000)" for "twenty-five thousand dollars (\$25,000)" in (b)(1).

19-11-235. Responsibility of bidders and offerors.

(a)(1) A determination of nonresponsibility of a bidder or offeror shall be made in accordance with regulations promulgated by the State Procurement Director.

(2) A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted.

(3) The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(4) If a bidder or offeror is determined to be nonresponsible, the reasons therefor shall be included in the determination.

(b)(1) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside

of the Office of State Procurement or the procurement agency without prior written consent by the bidder or offeror.

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the Director of the Department of Finance and Administration when any of those officers deems it necessary.

(c) The State Procurement Director or the agency procurement official may require the posting of a bid bond, a performance bond, or a similar assurance by any actual or prospective bidder, offeror, or contractor, under regulations promulgated under this subchapter.

History. Acts 1979, No. 482, § 36;
A.S.A. 1947, § 14-261; Acts 1991, No.
1018, § 6; 2001, No. 1237, § 28.

19-11-236. Prequalification of suppliers.

(a)(1) The State Procurement Director may provide for prequalification of suppliers as responsible prospective contractors for particular types of commodities, technical and general services, and professional and consultant services.

(2) Solicitation mailing lists of potential contractors shall include, but shall not be limited to, such prequalified suppliers.

(b) Prequalifications shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and making of an award that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

History. Acts 1979, No. 482, § 37;
A.S.A. 1947, § 14-262; Acts 2005, No.
1680, § 8.

19-11-237. Cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee contracts.

As used in this subchapter, unless the context otherwise requires, the cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee system may be used under the authority of the State Procurement Director when:

(1) There exists no other economically practicable price arrangement to secure the commodity;

(2) A cost saving may be proved over the least expensive alternative;
or

(3) The pricing schedule involved is tied to an industry standard or other reliable system of cost prediction.

History. Acts 1979, No. 482, § 39; Acts 1995, No. 1234, § 1; 2001, No. 1237,
1983, No. 517, § 2; A.S.A. 1947, § 14-264; § 29.

19-11-238. Multiyear contracts.

(a) **SPECIFIED PERIOD.** Unless otherwise provided by law, a contract for commodities or services may be entered into for periods of not more than seven (7) years if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor.

(b) **DETERMINATION PRIOR TO USE.** Prior to the utilization of a multi-year contract, it shall be determined in writing that:

(1) Estimated requirements cover the period of the contract and are reasonably firm and continuing;

(2) Such a contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement; and

(3) In the event of termination for any reason, the contract provides for cessation of services and/or surrender by the state of the commodities and repayment to the state of any accrued equity.

(c) **TERMINATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING YEARS.** Original terms of such multiyear contracts shall terminate on the last day of the current biennium, and any renewals by the state based upon continuing appropriation shall not exceed the next succeeding biennium. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent year of a multi-year contract, the contract for such subsequent year shall be terminated and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the commodities or services delivered under the contract. The cost of termination may be paid from:

(1) Appropriations currently available for performance of the contract;

(2) Appropriations currently available for procurement of similar commodities or services and not otherwise obligated; or

(3) Appropriations made specifically for the payment of such termination costs.

History. Acts 1979, No. 482, § 43; § 5; 1995, No. 340, § 5; 1995, No. 912, A.S.A. 1947, § 14-267; Acts 1995, No. 317, § 1.

19-11-239. Finality of determinations.

The determinations required by:

(1) Section 19-11-229(h), which refers to competitive sealed bidding, award;

(2) Section 19-11-230(b), which refers to competitive sealed proposals, conditions for use;

(3) Section 19-11-230(f), which refers to competitive sealed proposals, award;

(4) Section 19-11-232, which refers to proprietary or sole source procurements;

- (5) Section 19-11-233, which refers to emergency procurements;
- (6) Section 19-11-234, which refers to competitive bidding;
- (7) Section 19-11-235, which refers to responsibility of bidders and offerors, determination of responsibility;
- (8) Section 19-11-238(b), which refers to multiyear contracts, determination prior to use; and
- (9) Section 19-11-263, which refers to special procurements, are final and conclusive, unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

History. Acts 1979, No. 482, § 46; 1981, No. 600, § 27; A.S.A. 1947, § 14-270; Acts 2001, No. 1237, § 30.

19-11-240. Reporting of suspected collusion.

(a) **NOTIFICATION TO THE ATTORNEY GENERAL.** When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the Attorney General.

(b) **RETENTION OF ALL DOCUMENTS.** All documents involved in any procurement in which collusion is suspected shall be retained until the Attorney General gives notice that they may be destroyed. All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt therefor.

History. Acts 1979, No. 482, § 47; A.S.A. 1947, § 14-270.1.

19-11-241. Specifications — Definition.

(a) **DEFINITION.**

(1) “Specification” means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service.

(2) “Specification” may include a description of any requirement for inspecting, testing, or preparing a commodity or service for delivery.

(b) The State Procurement Director shall promulgate regulations governing the preparation, maintenance, and content of standard and nonstandard specifications for commodities, technical and general services, and professional and consultant services procured by the Office of State Procurement.

(c) **MAXIMUM PRACTICABLE COMPETITION.** All specifications shall be drafted so as to assure the maximum practicable competition for the state’s actual requirements.

History. Acts 1979, No. 482, §§ 49-51; 271 — 14-272.1; Acts 2001, No. 1237, 1981, No. 600, § 28; A.S.A. 1947, §§ 14- § 31; 2005, No. 1680, § 9.

19-11-242. Commodity management regulations.

The State Procurement Director shall promulgate regulations governing:

(1) The sale, lease, or disposal of surplus commodities by public auction, competitive sealed bidding, or other appropriate method designated by regulation, and no employee of the Department of Finance and Administration or member of the employee's immediate family shall be entitled to purchase any such commodities;

(2) The transfer of excess commodities within the state; and

(3) The sale, lease, or disposal of surplus commodities to not-for-profit organizations under § 22-1-101.

History. Acts 1979, No. 482, § 55; A.S.A. 1947, § 14-275.1; Acts 2001, No. 1237, § 32; 2013, No. 1020, § 1. **Amendments.** The 2013 amendment added (3) and made stylistic changes.

19-11-243. Proceeds from surplus commodities.

The State Procurement Director shall promulgate regulations for the allocation of proceeds from the sale, lease, or disposal of surplus commodities, to the extent practicable, to the using agency which had possession of the commodity.

History. Acts 1979, No. 482, § 56; A.S.A. 1947, § 14-275.2; Acts 2001, No. 1237, § 33.

19-11-244. Resolution of protested solicitations and awards.

(a)(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of a contract may protest by presenting a written notice at least seventy-two (72) hours before the filing deadline for the solicitation response to the State Procurement Director or the head of a procurement agency.

(2) Any actual bidder, offeror, or contractor who is aggrieved in connection with the award of a contract may protest to the:

(A) Director; or

(B) Head of a procurement agency.

(3) The protest shall be submitted in writing within fourteen (14) calendar days after the aggrieved person knows or should have known of the facts giving rise to the grievance.

(b)(1) Prior to the commencement of an action in court or any other action provided by law concerning the controversy, the director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest concerning the solicitation or award of a contract.

(2) This authority shall be exercised in accordance with laws governing the Arkansas State Claims Commission and the regulations promulgated by the director.

(c)(1) If the protest is not resolved by mutual agreement, and after reasonable notice to the protestor involved and reasonable opportunity

for the protestor to respond to the protest issues according to the regulations promulgated by the director, the head of a procurement agency, the director, or a designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the protestor and any other party intervening.

(e) A decision under subsection (c) of this section shall be final and conclusive.

(f) In the event of a timely protest under subsection (a) of this section, the state shall not proceed further with the solicitation or with the award of the contract until the director or the head of a procurement agency makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

(g) When the protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs, through the commission.

History. Acts 1979, No. 482, § 57; 1237, § 34; 2003, No. 487, § 7; 2005, No. A.S.A. 1947, § 14-276; Acts 2001, No. 1680, § 10; 2009, No. 677, § 1.

CASE NOTES

Exhaustion of Remedies.

Where plaintiffs chose to bring suit under the Purchasing Law, they were bound by the procedural requirements of the statute, notwithstanding their argument that they fell within a recognized exception to the exhaustion doctrine; plaintiffs were not justified in assuming that the state employee's assertion was correct,

and specifically, in assuming that the Purchasing Law's dispute resolution process was no longer applicable. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

Cited: *National Park Medical Ctr. v. Arkansas Dep't of Human Servs.*, 322 Ark. 595, 911 S.W.2d 250 (1995).

19-11-245. Debarment or suspension.

(a) **APPLICABILITY.** This section applies to debarment for cause from consideration for award of contracts, or a suspension from such consideration during an investigation, when there is probable cause for such a debarment.

(b)(1)(A)(i) After reasonable notice to the person involved and reasonable opportunity for that person to have a hearing before a committee according to regulations promulgated by the State Procurement Director, the director or the head of a procurement agency shall have authority to debar a person for cause from consideration for award of contracts, provided that doing so is in the best interests of the state.

(ii) The debarment shall not be for a period of more than three (3) years.

(B)(i) The same officer shall have authority to suspend a person from consideration for award of contracts, provided that doing so is in the best interests of the state and there is probable cause for debarment.

(ii) The suspension shall not be for a period exceeding three (3) months.

(2) The authority to debar or suspend shall be exercised in accordance with regulations promulgated by the director.

(c) The causes for debarment or suspension because of unsuitability for award of a contract shall be set forth in regulations promulgated by the director.

(d) The director or the head of a procurement agency shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(e) NOTICE OF DECISION. A copy of the decision under subsection (d) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the debarred or suspended person and any other party intervening.

(f) FINALITY OF DECISION. A decision under subsection (d) of this section shall be final and conclusive.

History. Acts 1979, No. 482, § 58; A.S.A. 1947, § 14-277; Acts 2001, No. 1237, § 35; 2003, No. 487, § 8.

19-11-246. Resolution of contract and breach of contract controversies.

(a) APPLICABILITY. This section applies to controversies between the state and a contractor which arise under or by virtue of a contract between them. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modifications or rescission.

(b)(1) The State Procurement Director, the head of a procurement agency, or a designee of either officer is authorized, prior to commencement of an action in a court or any other action provided by law concerning the controversy, to settle and resolve a controversy described in subsection (a) of this section.

(2) This authority shall be exercised in accordance with the law governing the Arkansas State Claims Commission and the regulations promulgated by the director.

(c)(1) If such a claim or controversy is not resolved by mutual agreement, and after reasonable notice to the contractor and reasonable opportunity for the contractor to present the claim or controversy in accordance with the regulations promulgated by the director, the head of a procurement agency, the director, or the designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the contractor.

(e) The decision under subsection (c) of this section shall be final and conclusive.

(f) If the director, the head of a procurement agency, or the designee of either officer does not issue the written decision required under subsection (c) of this section within one hundred twenty (120) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision has been received.

History. Acts 1979, No. 482, § 59; 1237, § 36; 2003, No. 487, § 9; 2005, No. A.S.A. 1947, § 14-278; Acts 2001, No. 1680, § 11.

19-11-247. Remedies for unlawful solicitation or award.

(a) The provisions of this section apply where it is determined upon any review provided by law that a solicitation or award of a contract is in violation of law.

(b) If prior to award it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be:

- (1) Cancelled; or
- (2) Revised to comply with the law.

(c) If after an award it is determined that a solicitation or award of a contract is in violation of law, then in addition to or in lieu of other remedies provided by law:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(A) The contract may be ratified and affirmed if it is determined that doing so is in the best interests of the state; or

(B) The contract may be terminated;

(2) If the person awarded the contract has acted fraudulently or in bad faith:

(A) The contract may be declared null and void; or

(B) The person awarded the contract may be directed to proceed with performance of the contract and pay such damages, if any, as may be appropriate if such action shall be in the best interests of the state.

History. Acts 1979, No. 482, §§ 60-62; A.S.A. 1947, §§ 14-279 — 14-279.2.

CASE NOTES

Improper Remedy.

In their action under the Arkansas Purchasing Law, plaintiffs sought the wrong remedy as the Purchasing Law provides for termination of the contract or “other remedies provided by law,” such as an

injunction or mandamus, if an award is in violation of the law; plaintiffs sought compensatory and punitive damages, but failed to seek injunctive relief or mandamus. *Milligan v. Burrow*, 52 Ark. App. 20, 914 S.W.2d 763 (1996).

19-11-248. Finality of administrative determinations.

In any judicial action or other action provided by law, factual or legal determinations by employees, agents, or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except to the extent provided in:

- (1) Section 19-11-239, which refers to finality of determinations;
- (2) Section 19-11-244(e), which refers to resolution of protested solicitations and awards, finality of decision;
- (3) Section 19-11-245(f), which refers to debarment or suspension, finality of decision; and
- (4) Section 19-11-246(e), which refers to resolution of contract and breach of contract controversies, finality of decision.

History. Acts 1979, No. 482, § 63;
A.S.A. 1947, § 14-280.

19-11-249. Cooperative purchasing.

(a)(1) A public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of commodities or services with one (1) or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants.

(2) A cooperative purchasing agreement under this section may include without limitation a joint or multiparty contract between public procurement units and an open-ended state public procurement unit contract that is made available to local public procurement units.

(b)(1) The State Procurement Director shall present a quarterly report of all purchases made under cooperative purchasing agreements under this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee.

(2) The report required under this subsection shall be in the format required by the Legislative Council and shall include the following:

- (A) The name of the contractor;
- (B) The name of the procuring agency;
- (C) The contact information for the contractor and procuring agency;
- (D) The total cost of the contract, including all available extensions;
- (E) A description of the goods or services procured; and
- (F) Any other information requested by the Legislative Council or the Joint Budget Committee.

History. Acts 1979, No. 482, § 65;
A.S.A. 1947, § 14-282; Acts 2015, No. 557,
§ 4.

Amendments. The 2015 amendment inserted the designations in (a); in (a)(1), substituted “A public procurement unit

may” for “Any public procurement unit may either” and deleted “any” before “commodities”; in (a)(2), inserted “agreement under this section”, substituted “without limitation a” for “but is not limited to”, substituted “contract” for “con-

tracts", and substituted "contract that is" for "contracts which are"; and added (b).

19-11-250. Sale, etc., of commodities.

Any public procurement unit by agreement with another public procurement unit may sell to, acquire from, or use any commodities belonging to or produced by another public procurement unit or external procurement activity independent of the requirements of:

(1) Sections 19-11-204, 19-11-228 — 19-11-240, and 19-11-263, which refer to source selection and contract formation; and

(2) Sections 19-11-205, 19-11-242, and 19-11-243, which refer to commodity management.

History. Acts 1979, No. 482, § 66;
A.S.A. 1947, § 14-283; Acts 2001, No.
1237, § 37; 2003, No. 487, § 10.

19-11-251. Intergovernmental use of commodities or services.

Any public procurement unit may enter into an agreement with any other public procurement unit or external procurement activity for the intergovernmental use of commodities, technical and general services, or professional and consultant services under the terms agreed upon between the parties and in accordance with the rules and regulations promulgated under this subchapter, independent of the requirements of:

(1) Sections 19-11-204, 19-11-228 — 19-11-240, and 19-11-263 that refer to source selection and contract formation; and

(2) Sections 19-11-205, 19-11-242, and 19-11-243 that refer to commodity management.

History. Acts 1979, No. 482, § 67;
A.S.A. 1947, § 14-284; Acts 2001, No.
1237, § 38; 2005, No. 1680, § 12.

19-11-252. Rules and regulations.

The State Procurement Director may promulgate reasonable rules and regulations pertaining to the sale or acquisition of any commodities, technical and general services, or professional and consultant services belonging to or produced by another public procurement unit or external procurement activity as authorized in §§ 19-11-206 and 19-11-249 — 19-11-258.

History. Acts 1979, No. 482, § 68;
A.S.A. 1947, § 14-285; Acts 2001, No.
1237, § 39; 2005, No. 1680, § 13.

19-11-253. Joint use of facilities.

Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties.

History. Acts 1979, No. 482, § 69;
A.S.A. 1947, § 14-286.

19-11-254. State information services.

(a) Upon request, the State Procurement Director may make available to public procurement units the following services, among others:

- (1) Standard forms;
- (2) Printed manuals;
- (3) Product specifications and standards;
- (4) Quality assurance testing services and methods;
- (5) Qualified products lists;
- (6) Source information;
- (7) Common use commodities listings;
- (8) Supplier prequalification information;
- (9) Supplier performance ratings;
- (10) Debarred and suspended bidders lists;
- (11) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
- (12) Contracts, or published summaries thereof, including price and time of delivery information.

(b) The director may enter into contractual arrangements and publish a schedule of fees for the services provided under this section.

History. Acts 1979, No. 482, §§ 70, 71;
A.S.A. 1947, §§ 14-287, 14-288; Acts 2001,
No. 1237, § 40.

19-11-255. Use of payments received.

All payments from any public procurement unit or external procurement activity received by a public procurement unit supplying services shall be available to the supplying public procurement unit.

History. Acts 1979, No. 482, § 72;
A.S.A. 1947, § 14-289.

19-11-256. Compliance by public procurement units.

(a) **PROCUREMENT IN ACCORDANCE WITH REQUIREMENTS.** When the public procurement unit or external procurement activity administering a cooperative purchase complies with the requirements of this subchapter, any public procurement unit participating in such a purchase shall be deemed to have complied with this subchapter.

(b) When a public procurement unit or external procurement activity not subject to this subchapter administers a cooperative purchase for a public procurement unit subject to this subchapter, then the State Procurement Director must determine in writing that the procurement system and remedies procedures of the public procurement unit or external procurement activity administering the procurement substantially meet the requirements of this subchapter.

History. Acts 1979, No. 482, § 73;
A.S.A. 1947, § 14-290; Acts 2001, No.
1237, § 41.

19-11-257. Review of procurement requirements.

(a)(1) To the extent possible and consistent with efficiency, the State Procurement Director shall collect information concerning the type, cost, quality, and quantity of commonly used commodities or services being procured or used by state public procurement units.

(2) The director may also collect such information from local public procurement units.

(b) The director may make available all such information to any public procurement unit upon request.

History. Acts 1979, No. 482, § 74;
A.S.A. 1947, § 14-291; Acts 2001, No.
1237, § 42.

19-11-258. Contract controversies.

Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with §§ 19-11-244 — 19-11-248, which refer to legal and contractual remedies, where the administering public procurement unit is a state public procurement unit or otherwise subject to §§ 19-11-244 — 19-11-248.

History. Acts 1979, No. 482, § 75;
A.S.A. 1947, § 14-292.

19-11-259. Preferences among bidders — Definitions.

(a) DEFINITIONS.

(1) The definitions in this subsection shall not be applicable to other sections of this subchapter.

(2) As used in this section:

(A) “Commodities” means materials and equipment used in the construction of public works projects;

(B) “Firm resident in Arkansas” means any individual, partnership, association, or corporation, whether domestic or foreign, that:

(i) Maintains at least one (1) staffed office in this state;

(ii) For not fewer than two (2) successive years immediately prior to submitting a bid, has paid taxes under the Department of Workforce Services Law, § 11-10-101 et seq., unless exempt, and either the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., on any property used or intended to be used for or in connection with the firm's business; and

(iii) Within the two-year period, has paid any taxes to one (1) or more counties, school districts, or municipalities of the State of Arkansas on either real or personal property used or intended to be used or in connection with the firm's business;

(C) "Lowest qualified bid" means the lowest bid which conforms to the specifications and request for bids;

(D) "Nonresident firm" means a firm which is not included in the definition of a "firm resident in Arkansas"; and

(E) "Public agency" means all counties, municipalities, and political subdivisions of the state.

(b)(1)(A) In the purchase of commodities by competitive bidding, all public agencies shall accept the lowest qualified bid from a firm resident in Arkansas.

(B) This bid shall be accepted only if the bid does not exceed the lowest qualified bid from a nonresident firm by more than five percent (5%) and if one (1) or more firms resident in Arkansas made written claim for a preference at the time the bids were submitted.

(C)(i) In calculating the preference to be allowed, the appropriate procurement officials, pursuant to §§ 19-11-201 — 19-11-259, shall take the amount of each bid of the Arkansas dealers who claimed the preference and deduct five percent (5%) from its total.

(ii) If, after making such deduction, the bid of any Arkansas bidder claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the Arkansas firm which submitted the lowest bid, regardless of whether that particular Arkansas firm claimed the preference.

(2)(A) The preference provided for in this section shall be applicable only in comparing bids where one (1) or more bids are by a firm resident in Arkansas and the other bid or bids are by a nonresident firm.

(B) This preference shall have no application with respect to competing bids if both bidders are firms resident in Arkansas, as defined in this section.

(C)(i) All public agencies shall be responsible for carrying out the spirit and intent of this section in their procurement policies.

(ii) Any public agency which, through any employee or designated agent, is found guilty of violating the provisions of this section or committing an unlawful act under it, shall be guilty of a misdemeanor.

(D) Notwithstanding any other provisions of Arkansas law, upon conviction that person shall be subject to imprisonment for not more

than six (6) months or a fine of not more than one thousand dollars (\$1,000), or both.

(E)(i) If any provision or condition of this subchapter conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grants-in-aid programs or other federal aid programs, such provision or condition shall not apply to such federal-supported contracts for the purchase of commodities to the extent that the conflict exists.

(ii) However, all provisions or conditions of this subchapter with which there is no conflict shall apply to contracts to purchase commodities to be paid, in whole or in part, from federal funds.

(c)(1)(A) This section applies only to projects designed to provide utility needs of a county or municipality.

(B) Those projects shall include without limitation pipeline installation, sanitary projects, and waterline, sewage, and water works.

(2) To the extent that federal purchasing laws or bidding preferences conflict, this subchapter does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

History. Acts 1979, No. 482, § 76; 1981, No. 600, § 29; 1983, No. 760, § 2; A.S.A. 1947, § 14-293; Acts 1989, No. 477, § 2; 1989 (3rd Ex. Sess.), No. 45, § 1; 1991, No. 846, § 1; 1991, No. 855, § 1; 1993, No. 263, § 1; 1993, No. 678, §§ 1, 2; 2001, No. 1237, § 43; 2003, No. 487, § 11; 2015, No. 147, § 2.

Publisher's Notes. Acts 1983, No. 760, § 1, provided that, on March 24, 1983, printing, stationery, and supplies subject to Ark. Const. Amend. 54 would be subject to the provisions of the Arkansas Preference Law (Acts 1979, No. 482, as amended).

Acts 1989, No. 477, § 1, provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the bidder's preference for firms resident in Arkansas on purchases of com-

modities by public agencies has been declared unconstitutional because of the vague definition of 'firm resident in Arkansas'; that the bidder's preference law is beneficial to the state; and corrective legislation should be enacted to reinstitute bidder's preference law. Therefore, the purpose of this act is to redefine 'firm resident in Arkansas' in Arkansas Code 19-11-259 in order to correct constitutional deficiencies."

Amendments. The 2015 amendment redesignated the former language of (c)(1) as (c)(1)(A); substituted "This section applies only" for "The provisions of this section shall only apply" in (c)(1)(A); redesignated former (c)(2) as (c)(1)(B) and substituted "without limitation" for "but shall not be limited to"; and added present (c)(2).

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Note, Public Contracts — Standing of Unsuccessful Bidders to Sue. *Walt Bennett Ford, Inc. v.*

Pulaski County Special School District, 274 Ark. 208, 624 S.W.2d 426 (1981). 5 U. Ark. Little Rock L.J. 431.

CASE NOTES

ANALYSIS

Factual Determination.
Sale of School Buses.

Factual Determination.

The question presented as to whether a dealer was entitled to a preference under former statute was factual, depending upon the circumstances in each particular case. *Stebbins & Roberts, Inc. v. Pulaski*

Glass & Mirror Co., 233 Ark. 449, 345 S.W.2d 912 (1961) (decision under prior law).

Sale of School Buses.

This section applies to a contract for the sale of 18 school buses to a school district, since a school district is a subdivision of a state. *Walt Bennett Ford, Inc. v. Pulaski County Special Sch. Dist.*, 274 Ark. 208, 624 S.W.2d 426 (1981).

19-11-260. Recycled paper products — Preference.

(a) The State Procurement Director shall issue a recycled paper content specification for each type of paper product.

(b)(1) The goal of state agencies for the percentage of paper products to be purchased that utilize recycled paper shall be:

- (A) Ten percent (10%) in fiscal year 1991;
- (B) Twenty-five percent (25%) in fiscal year 1992;
- (C) Forty-five percent (45%) in fiscal year 1993; and
- (D) Sixty percent (60%) by calendar year 2000.

(2)(A) The Office of State Procurement shall prepare a semiannual report of the state's progress in meeting the goals for the purchase of paper products with recycled content.

(B) The report shall be made to the Governor.

(c)(1) Whenever a bid is required, a preference for recycled paper products shall be exercised if the use of the products is technically feasible and price is competitive.

(2)(A) For the purpose of procurement of recycled paper products, "competitive" means the bid price does not exceed the lowest qualified bid of a vendor offering paper products manufactured or produced from virgin material by ten percent (10%).

(B) An additional one percent (1%) preference shall be allowed for products containing the largest amount of postconsumer materials recovered within the State of Arkansas.

(3) A bidder receiving a preference under this section shall not be entitled to an additional preference under § 19-11-259.

History. Acts 1991, No. 749, § 4; 2001, No. 1237, §§ 44, 45.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Environmental Law, 14 U. Ark. Little Rock L.J. 779.

19-11-261. Cooperative purchase of paper products for local governments.

(a)(1) All cities, counties, and school districts shall participate in a cooperative purchasing program for the purchase of paper products.

(2) The program shall be administered by the State Procurement Director.

(b)(1) The director shall promulgate regulations for administration of the program.

(2) The regulations shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the committees.

History. Acts 1991, No. 749, § 4; 1997, No. 179, § 18; 2001, No. 1237, § 46.

19-11-262. Multiple award contracts.

(a)(1) Multiple award contracts may be made only if the State Procurement Director or an agency procurement official determines in writing that a single award is not advantageous to the State of Arkansas.

(2) The determination shall state in writing a rationale and basis for the multiple award contract.

(3) Multiple award contracts shall be limited to the least number of suppliers necessary to meet the requirements of the using agencies.

(b) If the director anticipates that multiple award contracts will be made, the invitation for bids shall include a notification of the right of the office to make such an award and the criteria upon which such an award will be based.

History. Acts 1995, No. 428, § 3; 1995, No. 507, § 3; 2001, No. 1237, § 47.

19-11-263. Special procurements.

(a) Notwithstanding any other provision of this subchapter, the State Procurement Director or the head of a procurement agency may initiate a procurement above the competitive bid amount specified in § 19-11-234, when the officer determines that an unusual or unique situation exists that makes the application of all requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest.

(b) A written determination of the basis for the procurement and for the selection of the particular contractor shall be included by the director or the head of a procurement agency in the contract file, and he or she shall file a monthly report with the Legislative Council describing all such determinations.

History. Acts 2001, No. 1237, § 48.

19-11-264. Submission of contracts with members of General Assembly required.

(a) All contracts with a member of the General Assembly, his or her spouse, or with any business in which such person or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract.

(b) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director and the Executive Director of the Arkansas Ethics Commission with its review as to the propriety of the contract, including without limitation whether the agency properly complied with the procurement process and whether the contract represents an improper conflict of interest between the member and the agency, within thirty (30) days after receipt of the proposed contract.

(c) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Finance and Administration has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

History. Acts 2007, No. 567, § 1.

19-11-265. Submission of contracts required.

(a)(1) A contract requiring the service of one (1) or more individuals for regular full-time or part-time weekly work shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, before the execution of the contract if the total initial contract amount or the total projected contract amount, including any amendments or possible extensions, is at least one hundred thousand dollars (\$100,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with its review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Office of State Procurement has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this section.

(c)(1) In addition to the contracts presented to the Legislative Council or to the Joint Budget Committee under subsection (a) of this section, the director shall compile a monthly report of all executed contracts requiring the service of one (1) or more individuals for regular full-time or part-time weekly work if the total initial contract amount or

the total projected contract amount, including any amendments or possible extensions, is at least twenty-five thousand dollars (\$25,000) and less than one hundred thousand dollars (\$100,000).

(2) The monthly report required under this subsection shall include without limitation:

- (A) The name of the contractor;
- (B) The state agency name;
- (C) The contact information for the contractor or state agency;
- (D) The total initial cost of the contract, the cost of any commodities included in the contract, and the cost of the services;
- (E) The type of commodities and services contracted;
- (F) The quantity of commodities and services contracted;
- (G) The procurement method;
- (H) The total projected contract amount that includes any amendments and all available extensions; and
- (I) Any other information requested by the Legislative Council or the Joint Budget Committee.

(3) The director shall remit the report required under this subsection each month to the Legislative Council or to the Joint Budget Committee as directed by the Legislative Council.

(d) A contract that is procured by a state agency with a state agency procurement official is subject to the reporting and presentment requirements under this section.

(e) It is a violation of state procurement laws, Arkansas Code Title 19, Chapter 11, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the reporting or presentment requirements of this section.

History. Acts 2007, No. 870, § 1; 2009, No. 396, § 1; 2015, No. 557, § 5.

Amendments. The 2015 amendment rewrote (a)(1); deleted former (c)(1)(B) and redesignated former (c)(1)(A) as (c)(1); in (c)(1), deleted “for technical and general services that are” following “contracts” at the beginning and substituted “all executed contracts ... hundred thousand dollars (\$100,000)” for “each commodities contract that includes services and has a projected total cost of two hundred fifty thousand dollars (\$250,000) or more”; inserted “required under this subsection” in

(c)(2); deleted “if the commodities contract is a state contract” at the end of (c)(2)(A); deleted “if the commodities contract is procured by a state agency with an agency procurement official” at the end of (c)(2)(B); in (c)(2)(D), inserted “initial” and “included in the contract”; deleted “commodity or” preceding “commodities” in (c)(2)(E); in (c)(2)(F), deleted “the commodity or” preceding “commodities” and inserted “and services”; inserted (c)(2)(H) and (I); inserted “required under this subsection” following “report” in (c)(3); deleted (c)(4); and added (d) and (e).

19-11-266. High efficiency lighting — Preference — Definitions.

(a)(1) The General Assembly finds:

(A) The expansion of state government makes it one of the state’s leading purchasers of lighting commodities;

(B) Recent technological developments have produced energy-efficient devices that reduce energy costs through a reduction in energy usage; and

(C) Prudent use of taxpayer dollars dictates that the State of Arkansas should be at the forefront of implementing energy-efficient devices in facilities operated with public funds.

(2) The intent of this section is to promote the use of high efficiency lighting in facilities operated with public funds when feasible.

(b) As used in this section:

(1)(A) “Fluorescent lamp” means a gas-discharge lamp that:

(i) Utilizes a magnetic, electronic, or other ballast; and

(ii) Uses electricity to excite mercury vapor in argon or neon gas resulting in a plasma that produces short-wave ultraviolet light that causes a phosphor to fluoresce and produce visible light.

(B) “Fluorescent lamp” includes without limitation a compact fluorescent lamp;

(2) “High efficiency lighting” means fluorescent lamp or solid state lighting;

(3) “Solid state lighting” means a light device that utilizes light-emitting diodes, organic light-emitting diodes, or polymer light-emitting diodes as sources of illumination rather than electrical filaments or gas; and

(4)(A) “State agency” means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds.

(B) “State agency” includes the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts.

(c) Whenever a state agency purchases or requires a bid for the purchase of an indoor lamp, a preference for high efficiency lighting shall be exercised if the use of high efficiency lighting is technically feasible and the price is competitive with consideration given to the long-term cost effectiveness and savings of high efficiency lighting.

(d)(1) The goal of state agencies for the percentage of purchased indoor lamps that are high efficiency lighting shall be one hundred percent (100%) by January 1, 2008.

(2) The Office of State Procurement shall prepare an annual report to the Legislative Council of the state’s progress in meeting the goals for the purchase of high efficiency lighting.

History. Acts 2007, No. 1597, § 1.

19-11-267. Development and use of performance-based contracts — Findings.

(a) The General Assembly finds that:

(1) Performance-based contracts provide an effective and efficient method of monitoring and evaluating the overall quality of services provided; and

(2) The practice of including benchmark objectives that the provider must attain at specific intervals during the term of the contract is an essential requirement for measuring performance.

(b) A state agency, board, commission, or institution of higher education that enters into a contract under this subchapter to procure services shall use performance-based standards in the contract.

(c)(1) The State Procurement Director shall promulgate rules necessary to implement and administer this section.

(2) Rules promulgated under this subsection are subject to approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History. Acts 2015, No. 557, § 6.

19-11-268. Vendor performance reporting.

(a)(1) A state agency shall report a vendor's performance under a contract executed under this subchapter that has a total initial contract amount or total projected contract amount, including any amendments to or possible extensions of the contract, of at least twenty-five thousand dollars (\$25,000).

(2) A state agency shall use the form prescribed by the State Procurement Director and approved by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, to report a vendor's performance under this section.

(b) The report required under this section shall be:

(1) Completed and submitted:

(A) At least one (1) time every three (3) months for the entire term of the contract; and

(B) At the end of the contract;

(2) Filed with the Office of State Procurement and maintained for a minimum of three (3) years from the termination of the relevant contract, including any extensions and amendments; and

(3) Signed by the director of the state agency or his or her designee.

History. Acts 2015, No. 557, § 6.

19-11-269. Review of information technology plans.

The Office of State Procurement shall ensure that all required information has been submitted to the Office of Intergovernmental Services of the Department of Finance and Administration for review of proper planning and technical requirements before the execution of:

(1) A contract issued under this subchapter that procures information technology products or services with a total projected contract amount, including any amendments to or possible extensions of the contract, of at least one hundred thousand dollars (\$100,000); or

(2) A purchase of information technology products or services made under a cooperative purchase agreement under § 19-11-249.

History. Acts 2015, No. 557, § 6.

19-11-270. Penalty for intentional violation.

A person who purposely violates state procurement laws, Arkansas Code Title 19, Chapter 11, upon conviction is guilty of a Class D felony.

History. Acts 2015, No. 557, § 6.

19-11-271. Compliance reporting.

(a) Each report required under this subchapter shall be copied to the Director of the Department of Finance and Administration, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq.

(b) If the director determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq., the director shall notify the chief executive officer of the relevant state agency.

History. Acts 2015, No. 557, § 6.

19-11-272. Experience requirement — Findings.

(a)(1) The General Assembly finds that:

(A) An invitation for bids, a request for proposals, and a request for qualifications often require that bidders and offerors have a certain amount of experience to qualify;

(B) These experience requirements often apply to the business of the bidder or offeror rather than the key personnel of the bidder or offeror;

(C) As a result, new businesses with highly qualified personnel often do not qualify to compete for state contracts even though the executives and employees of the business have the experience required; and

(D) It is in the best interests of the state to encourage new businesses and to seek out the most qualified people to provide products and services to the state.

(2) The General Assembly intends for this section to:

(A) Encourage entrepreneurship;

(B) Level the playing field for new businesses to compete for business opportunities; and

(C) Enable new businesses with highly qualified personnel to compete for state contracts.

(b) If an invitation for bids, a request for proposals, or a request for qualifications under this chapter requires a certain amount of experience or a certain number of years in existence for the bidder or offeror, the requirement shall be satisfied by either:

(1)(A) The amount of experience of the bidder or offeror.

(B) A bidder or offeror may use the combined experience of its owners or senior executive staff to satisfy the requirement under subdivision (b)(1)(A) of this section; or

(2) The combined amount of experience of the key personnel of the bidder or offeror that will be responsible for satisfying the requirements of the contract to be procured.

(c)(1) However, before the issuance of an invitation for bids, a request for proposals, or a request for qualifications, the Office of State Procurement or a procurement agency may determine in writing that the combined experience of the key personnel of a bidder or offeror under subdivision (b)(2) of this section would be insufficient to adequately satisfy the requirements of the invitation for bids, request for proposals, or request for qualifications.

(2) A written determination under subdivision (c)(1) of this section shall include the following:

(A) A specific description of the products or services that the Office of State Procurement or procurement agency seeks to procure; and

(B) A detailed statement of the reasons the combined experience of the key personnel of a bidder or offeror would be insufficient.

History. Acts 2015, No. 281, § 1.

SUBCHAPTER 3 — BIDDING — STATE INDUSTRY PRIORITY

SECTION.

19-11-301. Purpose.

19-11-302. Definitions.

19-11-303. Provisions controlling.

19-11-304. Priority for state industries.

19-11-305. Award to lowest state bidder

— Exceptions.

SECTION.

19-11-306. Underbid by nonresident industry or penal institution.

Cross References. Prison-made goods, § 12-30-201 et seq., § 22-3-1218.

Effective Dates. Acts 1981, No. 309, § 9: Mar. 4, 1981. Emergency clause provided: "It has been found and it is declared by the General Assembly of Arkansas that inequalities and discriminations in the awards of State contracts exist as the result of the receipt of bids from out of

state penal institutions, and that enactment of this Bill will provide for a more efficient and effective competitive environment for Arkansas industries. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall take effect and be in full force and effect from the date of its approval."

19-11-301. Purpose.

The purpose of this subchapter is to protect Arkansas private industries which employ Arkansas taxpayers and citizens from the unfair advantage held by certain out-of-state penal institutions that utilize convict labor and are exempt from minimum wage requirements, Occupational Safety and Health Act of 1970 requirements, and other

such standards which are imposed on private industries and which increase the costs of products manufactured by private industries. This advantage which is enjoyed by many out-of-state penal institutions allows them to often receive contracts under the Arkansas Procurement Law, § 19-11-201 et seq., bidding process when Arkansas private industries also submit bids, thus hindering a healthy competitive environment for the private industries of this state.

History. Acts 1981, No. 309, § 1; A.S.A. 1947, § 14-294.

U.S. Code. The Occupational Safety and Health Act of 1970, referred to in this

section, is codified as 5 U.S.C. §§ 5108, 5314, 5315, 7902; 15 U.S.C. §§ 633, 636; 18 U.S.C. § 1114; 29 U.S.C. §§ 553, 651—678.

19-11-302. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Bids” means proposals submitted to the state for the sale of products to the state;

(2) “Penal institution” means a penitentiary, jail, prison, reformatory, or other such establishment owned, operated, or funded by a state or local government wherein incarcerated criminals are kept;

(3) “Private industry” means manufacturers, makers of products, companies, corporations, or firms which are not departments, divisions, or arms of the federal, state, or local governments;

(4) “Private industry located within the State of Arkansas” means private industries, as defined in subdivision (3) of this section, which are located in Arkansas, employing Arkansas citizens and taxpayers as laborers in the process of manufacturing goods and products within this state; and

(5) “State” means the government of the State of Arkansas and all departments, branches, agencies, and subdivisions thereof.

History. Acts 1981, No. 309, § 2; A.S.A. 1947, § 14-294.1.

19-11-303. Provisions controlling.

Where provisions of this subchapter are inconsistent with provisions of the current Arkansas Procurement Law, § 19-11-201 et seq., the provisions in this subchapter shall control.

History. Acts 1981, No. 309, § 7; A.S.A. 1947, § 14-294.5.

19-11-304. Priority for state industries.

In the bidding process for the sale of products for use by the state, bids submitted by private industries located within the State of Arkansas and employing Arkansas taxpayers shall be given priority over bids submitted by out-of-state penal institutions employing convict labor.

History. Acts 1981, No. 309, § 3; A.S.A. 1947, § 14-294.2.

19-11-305. Award to lowest state bidder — Exceptions.

Subject to any applicable bonding requirements, in all bidding procedures involving a bid by one (1) or more out-of-state penal institutions and a bid by one (1) or more private industries located within the State of Arkansas, the contract shall be awarded to the sole Arkansas bidder or lowest Arkansas bidder if the Arkansas bidder is not underbid by more than five percent (5%), as provided in § 19-11-259, by another representative of private industry located outside the State of Arkansas or by more than fifteen percent (15%) by an out-of-state correctional institution.

History. Acts 1981, No. 309, § 4; A.S.A. 1947, § 14-294.3.

19-11-306. Underbid by nonresident industry or penal institution.

Subject to any applicable bonding requirements, in the event that a private Arkansas bidder is underbid by more than five percent (5%), as provided in § 19-11-259, by another representative of private industry located outside the State of Arkansas or is underbid by more than fifteen percent (15%) by an out-of-state correctional institution, the state contract shall be awarded to the lowest responsible bidder, whether that bidder is a penal or correctional institution or is a representative of private industry.

History. Acts 1981, No. 309, § 5; A.S.A. 1947, § 14-294.4.

SUBCHAPTER 4 — BIDDING — BONDS

SECTION.

19-11-401 — 19-11-405. [Repealed.]

19-11-401 — 19-11-405. [Repealed.]

Publisher's Notes. This subchapter, concerning bidding and bonds, was repealed by Acts 1993, No. 645, § 2. The subchapter was derived from the following sources:

19-11-401. Acts 1949, No. 228, § 1; A.S.A. 1947, § 14-113.

19-11-402. Acts 1949, No. 228, §§ 5, 6; 1983, No. 862, § 3; A.S.A. 1947, §§ 14-117, 14-118; Acts 1987, No. 55, § 1.

19-11-403. Acts 1949, No. 228, § 2; 1983, No. 862, § 1; A.S.A. 1947, § 14-114; Acts 1987, No. 758, § 2.

19-11-404. Acts 1949, No. 228, § 4; A.S.A. 1947, § 14-116.

19-11-405. Acts 1949, No. 228, § 3; 1983, No. 862, § 2; A.S.A. 1947, § 14-115; Acts 1987, No. 758, § 3.

SUBCHAPTER 5 — PURCHASES OF WORKSHOP-MADE PRODUCTS AND SERVICES.

SECTION.

19-11-501 — 19-11-504. [Repealed.]

19-11-501 — 19-11-504. [Repealed.]

Publisher's Notes. This subchapter, concerning purchases of workshop-made products and services, was repealed by Acts 2001, No. 1718, § 2. The subchapter was derived from the following sources:

19-11-501. Acts 1973, No. 405, § 1; A.S.A. 1947, § 14-229; Acts 1991, No. 853, § 1.

19-11-502. Acts 1973, No. 405, § 2; A.S.A. 1947, § 14-230; Acts 1991, No. 853, § 2.

19-11-503. Acts 1973, No. 405, § 3; A.S.A. 1947, § 14-231; Acts 1991, No. 853, § 3.

19-11-504. Acts 1973, No. 405, § 4; A.S.A. 1947, § 14-232; Acts 1991, No. 853, § 4; 1995, No. 1296, § 76; 2001, No. 961, § 8.

Section 19-11-504 was amended by Acts

2001, No. 961, and repealed by Acts 2001, No. 1718. The repeal by Acts 2001, No. 1718 was deemed to supersede the amendment by Acts 2001, No. 961

As amended by Acts 2001, No. 961, § 8, § 19-11-504 was amended to read as follows:

“(1)(G)(i) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

“(1)(G)(ii) This term shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of Arkansas State Building Services or public institutions of higher education;”

SUBCHAPTER 6 — FEDERAL GOVERNMENT SURPLUS PROPERTY

SECTION.

19-11-601. Authority to transfer to state and local agencies.

19-11-602. Purchase for schools and school districts.

19-11-603. Service charge.

SECTION.

19-11-604. Rural water associations.

19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.

A.C.R.C. Notes. Acts 2009, No. 1187, § 1, provided:

“(a) Effective July 1, 2009, the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the Federal Surplus Property program operated under Pub. L. No. 81-152 and Pub. L. No. 81-754 shall be transferred as a type 2 transfer, under § 25-2-105 from the Arkansas Department of Workforce Education to the Arkansas Department of Emergency Management.

“(b) For purposes of this act, the Arkansas Department of Emergency Management shall be considered a principal de-

partment established by Acts 1971, No. 38.”

Effective Dates. Acts 1951, No. 353, § 5: approved Mar. 20, 1951. Emergency clause provided: “Whereas, the immediate transfer of available government properties to eligible claimants as provided in Public Laws 152 and 754 by the 81st Congress is paramount to the establishment of an adequate civil defense program for the protection of the people of this State during the present national emergency; and

“Whereas, immediate action is needed by the State Board of Education for the transfer of available properties; now

“Therefore, this Act being necessary for the immediate preservation of the public

peace, health, and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage.”

Acts 1953, No. 384, § 19 [20]: July 1, 1953.

Acts 1988 (3rd Ex. Sess.), No. 7, § 3: Feb. 5, 1988. Emergency clause provided: “It is hereby found and determined by the Seventy-Sixth General Assembly, meeting in the Third Extraordinary Session, that the passage of this Act is necessary to provide for continued operation of the Vocational and Technical Education Division of the State Department of Education. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the

public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 2009, No. 1187, § 6: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that for the efficient operation of state and local government this act is immediately necessary to facilitate the cooperation with the federal government in the transfer of surplus property to state and local agencies and departments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

19-11-601. Authority to transfer to state and local agencies.

(a) The Arkansas Department of Emergency Management is authorized to cooperate with the federal government in the transfer of government surplus property to any and all departments and agencies of state and local government and to any and all other agencies eligible to receive surplus property under Pub. L. No. 81-152 and Pub. L. No. 81-754, and any and all other statutory laws that may be enacted by the United States Congress covering the disposal of federal government surplus property.

(b) The department is authorized to take any and all action necessary to the proper administration of the federal Surplus Property Program in the acquisition of and the distribution of government surplus properties to eligible claimants in this state, distribution to be in accordance with the appropriate controlling federal statutes.

(c) The department is authorized to add to the cost of the properties an amount necessary to defray the expenses of this service.

History. Acts 1951, No. 353, §§ 1-3; A.S.A. 1947, §§ 80-135.2 — 80-135.4; Acts 2009, No. 1187, § 2.

U.S. Code. Pub. L. No. 81-152 and Pub. L. No. 81-754, referred to in this section, are codified as 40 U.S.C. § 101 et seq.

19-11-602. Purchase for schools and school districts.

(a) The Arkansas Department of Emergency Management is authorized to purchase surplus commodities, materials, supplies, equipment, and other property from the federal government through any of its agencies for tax-supported schools and for school districts in Arkansas. The department is authorized to cooperate with the State Procurement Director in the purchase of school items.

(b) Schools and school districts desiring to obtain federal surplus materials, equipment, etc., shall make application to the department on blanks furnished by the department for that purpose.

(c) Schools and school districts making application to the department to purchase surplus materials, equipment, and other property from the federal government shall pay cash for it by drawing a voucher or warrant in favor of the federal government for the purchase price of such materials.

History. Acts 1945, No. 303, §§ 1-3; §§ 80-132—80-134; Acts 2009, No. 1187, 1953, No. 384, § 17 [18]; A.S.A. 1947, § 3.

19-11-603. Service charge.

(a) The Arkansas Department of Emergency Management is authorized to add to the cost of surplus properties secured by the State Agency for a Surplus Property an amount necessary to defray the expense of this service and to repay into the Revolving Loan Fund loans made to the agency as provided in this section.

(b) The department is also authorized to establish service charges in such amounts as may be necessary to cover the expenses of the department in administering special federal service programs for schools and agencies. These charges are to be paid by the school, institution, or agency in the amount designated by the department.

(c) The department is authorized and directed to take such action as is necessary to collect such charges and may, in its discretion, withhold from any state moneys over which the department has control funds necessary to pay the amounts owing by such school districts and agencies.

(d) It is the intention of the General Assembly that the schools and agencies shall pay for such services amounts sufficient to reimburse the department for expenses incurred in the operation of the federal Surplus Property Program and in the operation of special federal service programs.

History. Acts 1959, No. 357, § 12; A.S.A. 1947, § 80-135.1; Acts 2009, No. 1187, § 4.

19-11-604. Rural water associations.

Rural water associations shall be deemed eligible to participate in the federal Surplus Property Program operated under Pub. L. No. 81-152 and Pub. L. No. 81-754 as now administered by the Arkansas Department of Emergency Management.

History. Acts 1988, (3rd Ex. Sess.), No. 7, § 2; 2009, No. 1187, § 5.

U.S. Code. Pub. L. No. 81-152 and Pub. L. No. 81-754, referred to in this section, are codified as 40 U.S.C. § 101 et seq.

Cross References. Rural Development Authorities, § 14-188-101 et seq.

19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.

The Law Enforcement Support Office of the Department of Career Education may:

(1) Cooperate with the federal government under 10 U.S.C. § 2576a in the transfer of excess military property to state and local law enforcement agencies:

(A) Whose primary function is the enforcement of applicable federal, state, and local laws; and

(B) Whose compensated law enforcement officers have powers of arrest and apprehension, including without limitation counter-drug and counter-terrorism activities;

(2) Take any action necessary to the proper administration of the acquisition and the distribution of excess military properties to eligible claimants in this state, with distribution to be in accordance with the appropriate controlling federal statutes;

(3) Establish service charges in an amount necessary to cover the expenses of the Department of Career Education incurred in administering this section; and

(4) Take action as necessary to collect service charges and, from any state moneys over which the department has control, withhold funds necessary to pay an amount owing by a state or local law enforcement agency.

History. Acts 2013, No. 1097, § 1.

SUBCHAPTER 7 — ETHICS

SECTION.

- 19-11-701. Definitions.
- 19-11-702. Penalties.
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- 19-11-704. General standards of ethical conduct.
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- who breach ethical standards.
- 19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.
- 19-11-714. Recovery of value transferred or received in breach of ethical standards.
- 19-11-715. Duties of Director of Department of Finance and Administration.
- 19-11-716. Participation in business incubators — Regulations and guidelines.
- 19-11-717. State-supported institutions of higher education.
- 19-11-718. Special state employees — Conflicts of interest — Definitions.

Effective Dates. Acts 1979, No. 483, § 18: became effective at 12:01 a.m., July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that the proper and effective management and control of State government requires that the provisions of this act be implemented at the commencement of the next biennium and this Act being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Act shall become effective at 12:01 a.m. on July 1, 1979."

Acts 2003, No. 1093, § 4: Apr. 4, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that although Arkansas Code § 19-11-709(d) prohibits former state employees from entering into professional or consultant contracts with the state for one (1) year period, the current definitions provide a loophole to this provision, and allows such contracts; that this act is necessary to close this loophole; and that this act is immediately necessary to maintain the integrity of the process and the citizens confidence in awarding public contracts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 949, § 2: Mar. 18, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a question has arisen concerning the ability of state agencies to contract with business organizations for professional or consultant services in situations where the services will be provided, in whole or in part, by persons who are associated with the business organization and who are also employees of the public institution of higher education; that employees of institutions of higher education engage in research that

results in patents, copyrights, or proprietary interests; that under the policies of most institutions of higher education, the patents, copyrights, and proprietary interests are owned by the institution and are often commercialized in a manner that encourages and enhances economic development in the State of Arkansas through business organizations in which the institutions of higher education and some of their employees have an interest; that it is generally accepted under the policies of public institutions of higher education that employees whose inventions result in patents, copyrights, or other proprietary interests retain a right to receive a portion of the income from commercialization of these inventions and are allowed to devote a portion of their time to outside employment or consulting contracts with the business organizations that have licensed their inventions; that state agencies currently are uncertain whether they may contract for goods or services with business organizations to which employees of institutions of higher education provide services through arrangements related to patents, copyrights, or other proprietary interests; that such uncertainty has the effect of depriving state agencies of the benefit of new technology developments through public institutions of higher education; and that this act is immediately necessary in order to clarify the law so that state agencies are not unreasonably restricted in their ability to enter into necessary contractual arrangements that have positive impact on the economic development of the State of Arkansas and promote the development of new technologies. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Cross References. The Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq.

19-11-701. Definitions.

As used in this subchapter:

(1) "Blind trust" means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other dispositions of the property subject to the trust;

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3) "Commodities" means all property, including, but not limited to:

- (A) Equipment;
- (B) Printing;
- (C) Stationery;
- (D) Supplies;
- (E) Insurance; and
- (F) Real property;

(4) "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of this state and is not a matter of public knowledge or available to the public on request;

(5) "Conspicuously" means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it;

(6) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase or disposal of commodities and services. "Contract" includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. "Contract" also includes supplemental agreements with respect to any of the foregoing;

(7) "Contractor" means any person having a contract with a state agency;

(8) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any state agency;

(9) "Financial interest" means:

(A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;

(B) Ownership of more than a five percent (5%) interest in any business; or

(C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management;

(10) "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value,

present or promised, unless consideration of substantially equal or greater value is received;

(11) "Immediate family" means a spouse, children, parents, brothers and sisters, and grandparents;

(12) "Official responsibility" means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct state action;

(13) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(14) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services. "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(15) "Services" means technical, professional, or other services involving the furnishing of labor, time, or effort by a contractor; and

(16) "State agency" means any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.

History. Acts 1979, No. 483, § 1; A.S.A. 1947, § 14-1101; Acts 2003, No. 1093, §§ 1, 2.

19-11-702. Penalties.

Any employee or nonemployee who shall knowingly violate any of the provisions of this subchapter shall be guilty of a felony and upon conviction shall be fined in any sum not to exceed ten thousand dollars (\$10,000) or shall be imprisoned not less than one (1) nor more than five (5) years, or shall be punished by both.

History. Acts 1979, No. 483, § 15; A.S.A. 1947, § 14-1115; Acts 1995, No. 1296, § 77.

19-11-703. Statement of policy.

(a) Public employment is a public trust. It is the policy of the state to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the state. The policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

(b) Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a

manner as to foster public confidence in the integrity of the state procurement organization.

(c) To achieve the purpose of this subchapter, it is essential that those doing business with the state also observe the ethical standards prescribed in this subchapter.

History. Acts 1979, No. 483, § 2; A.S.A. 1947, § 14-1102.

19-11-704. General standards of ethical conduct.

(a) **GENERAL ETHICAL STANDARDS FOR EMPLOYEES.**

(1) Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

(2) In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in § 19-11-705, which refers to employee conflict of interest; § 19-11-706, which refers to employee disclosure requirements; § 19-11-707, which refers to gratuities and kickbacks; § 19-11-708, which refers to prohibition against contingent fees; § 19-11-709, which refers to restrictions on employment of present and former employees; and § 19-11-710, which refers to use of confidential information.

(b) **GENERAL ETHICAL STANDARDS FOR NONEMPLOYEES.** Any effort to influence any public employee to breach the standards of ethical conduct set forth in this subchapter is also a breach of ethical standards.

History. Acts 1979, No. 483, § 3; A.S.A. 1947, § 14-1103.

19-11-705. Employee conflict of interest.

(a) **CONFLICT OF INTEREST.**

(1) It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge:

(A) The employee or any member of the employee's immediate family has a financial interest;

(B) A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or

(C) Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.

(2) "Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommenda-

tion, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(b) **FINANCIAL INTEREST IN A BLIND TRUST.** Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Director of the Department of Finance and Administration.

(c) **DISCOVERY OF CONFLICT OF INTEREST, DISQUALIFICATION, AND WAIVER.**

Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the director and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the director in accordance with § 19-11-715(b) for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § 19-11-715(c).

History. Acts 1979, No. 483, § 4; A.S.A. 1947, § 14-1104.

19-11-706. Employee disclosure requirements.

(a) **DISCLOSURE OF BENEFIT RECEIVED FROM CONTRACT.** Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Director of the Department of Finance and Administration. However, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.

(b) **FAILURE TO DISCLOSE BENEFIT RECEIVED.** Any employee who knows or should have known of such benefit and fails to report the benefit to the director is in breach of the ethical standards of this section.

History. Acts 1979, No. 483, § 5; A.S.A. 1947, § 14-1105.

19-11-707. Gratuities and kickbacks.

(a) **GRATUITIES.** It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(b) **KICKBACKS.** It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.

History. Acts 1979, No. 483, § 6; A.S.A. 1947, § 14-1106.

CASE NOTES

Cited: McCuen v. State, 328 Ark. 46, 941 S.W.2d 397 (1997).

19-11-708. Prohibition against contingent fees.

(a) **CONTINGENT FEES.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

(b) **REPRESENTATION OF CONTRACTOR.** Before being awarded a state contract other than by procedures set forth in the Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated under the Arkansas Procurement Law, § 19-11-201 et seq., for small purchases, every person shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards.

(c) **NOTICE.** The representation prescribed in subsection (b) of this section shall be conspicuously set forth in all contracts and solicitations therefor.

History. Acts 1979, No. 483, § 7; A.S.A. 1947, § 14-1107.

19-11-709. Restrictions on employment of present and former employees — Definition.

(a) **CONTEMPORANEOUS EMPLOYMENT PROHIBITED.** It shall be a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the state agency by which the employee is employed.

(b) **RESTRICTIONS ON FORMER EMPLOYEES IN MATTERS CONNECTED WITH THEIR FORMER DUTIES.**

(1) **PERMANENT DISQUALIFICATION OF FORMER EMPLOYEE PERSONALLY INVOLVED IN A PARTICULAR MATTER.** It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

- (B) Contract;
- (C) Claim; or
- (D) Charge or controversy,

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the state is a party or has a direct and substantial interest.

(2) ONE-YEAR REPRESENTATION RESTRICTION REGARDING MATTERS FOR WHICH A FORMER EMPLOYEE WAS OFFICIALLY RESPONSIBLE. It shall be a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy,

knowingly to act as a principal or as an agent for anyone other than the state in matters which were within the former employee's official responsibility, where the state is a party or has a direct or substantial interest.

(c) DISQUALIFICATION OF PARTNERS.

(1) WHEN PARTNER IS A STATE EMPLOYEE. It shall be a breach of ethical standards for a person who is a partner of an employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy,

in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the state is a party or has a direct and substantial interest.

(2) WHEN A PARTNER IS A FORMER STATE EMPLOYEE. It shall be a breach of ethical standards for a partner of a former employee knowingly to act as a principal or as an agent for anyone other than the state where such former employee is barred under subsection (b) of this section.

(d) SELLING TO STATE AFTER TERMINATION OF EMPLOYMENT IS PROHIBITED.

(1) It is a breach of ethical standards for a former employee, unless the former employee's last annual salary based on the state fiscal year did not exceed fifteen thousand dollars (\$15,000), to engage in selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased.

(2) As used in this subsection, "sell" means:

- (A) Signing a bid, proposal, or contract;
- (B) Negotiating a contract;
- (C) Contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract;
- (D) Settling disputes concerning performance of a contract; or
- (E) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract for the sale is subsequently negotiated by another person.

(e)(1) This section is not intended to preclude a former employee from accepting employment with private industry solely because his or her employer is a contractor with this state.

(2) This section is not intended to preclude an employee, a former employee, or a partner of an employee or former employee from filing an action as a taxpayer for alleged violations of this subchapter.

History. Acts 1979, No. 483, § 8; A.S.A. 1947, § 14-1108; Acts 2003, No. 1093, § 3; 2015, No. 966, § 1.

Amendments. The 2015 amendment, in (d)(1), substituted “It is” for “It shall

be”, inserted “based on the state fiscal year”, and substituted “fifteen thousand dollars (\$15,000)” for “ten thousand five hundred dollars (\$10,500)”.

19-11-710. Use of confidential information.

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

History. Acts 1979, No. 483, § 9; A.S.A. 1947, § 14-1109.

19-11-711. Public access to procurement information.

Procurement information shall be public record to the extent provided in the Freedom of Information Act of 1967, § 25-19-101 et seq., except as otherwise provided in this subchapter and the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 1979, No. 483, § 10; A.S.A. 1947, § 14-1110.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 741.

19-11-712. Civil and administrative remedies against employees who breach ethical standards.

(a) EXISTING REMEDIES NOT IMPAIRED. Civil and administrative remedies against employees which are in existence on July 1, 1979, shall not be impaired.

(b) SUPPLEMENTAL REMEDIES. In addition to existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, the Director of the Department of Finance and Administration may impose any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Forfeiture of pay without suspension;
- (3) Suspension with or without pay for specified periods of time; and
- (4) Termination of employment.

(c) RIGHT TO RECOVER FROM EMPLOYEE VALUE RECEIVED IN BREACH OF ETHICAL STANDARDS. The value of anything received by an employee in breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, shall be recoverable by the state as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) DUE PROCESS. Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

History. Acts 1979, No. 483, § 11;
A.S.A. 1947, § 14-1111.

19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.

(a) EXISTING REMEDIES NOT IMPAIRED. Civil and administrative remedies against nonemployees which are in existence on July 1, 1979, shall not be impaired.

(b) SUPPLEMENTAL REMEDIES. In addition to the existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, the Director of the Department of Finance and Administration may impose any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Termination of transactions; and
- (3) Suspension or debarment from being a contractor or subcontractor under state contracts.

(c) RIGHT TO RECOVER FROM NONEMPLOYEE VALUE TRANSFERRED IN BREACH OF ETHICAL STANDARDS. The value of anything transferred in breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, by a nonemployee shall be recoverable by the state from such person as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) **DUE PROCESS.** Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

History. Acts 1979, No. 483, § 12;
A.S.A. 1947, § 14-1112.

19-11-714. Recovery of value transferred or received in breach of ethical standards.

(a) **GENERAL PROVISIONS.** The value of anything transferred or received in breach of the ethical standards of this subchapter, or regulations promulgated under this subchapter, by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

(b) **RECOVERY OF KICKBACKS BY THE STATE.** Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the state and will be recoverable under this subchapter from the recipient. In addition, this value may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

History. Acts 1979, No. 483, § 13;
A.S.A. 1947, § 14-1113.

19-11-715. Duties of Director of Department of Finance and Administration.

(a) **REGULATIONS.** The Director of the Department of Finance and Administration shall promulgate regulations to implement this subchapter and shall do so in accordance with this subchapter and the applicable provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) **ADVISORY OPINIONS.** On written request of employees or contractors and in consultation with the Attorney General, the director may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions. Such requests and advisory opinions may be duly published in the manner in which regulations of this state are published. Compliance with the requirements of a duly promulgated advisory opinion of the director shall be deemed to constitute compliance with the ethical standards of this subchapter.

(c) **WAIVER.** On written request of an employee, the director may grant an employee a written waiver from the application of § 19-11-705, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be

granted when the interests of the state so require or when the ethical conflict is insubstantial or remote.

History. Acts 1979, No. 483, § 14;
A.S.A. 1947, § 14-1114.

19-11-716. Participation in business incubators — Regulations and guidelines.

(a) The provisions of this subchapter shall not be applicable to faculty or staff of state-supported institutions of higher education participating in business incubators within this state.

(b)(1) The Director of the Department of Finance and Administration shall promulgate rules and regulations pursuant to the procedure for adoption as provided under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a program allowing admittance to business incubators by faculty or staff of state-supported institutions of higher education or admittance by companies in which faculty or staff may hold an ownership interest.

(2) The program may include guidelines setting forth full disclosure requirements, any limitations on ownership interests, maximum income amounts to be received, annual reporting to the General Assembly, mandatory levels of student participation and such other reasonable restrictions and requirements as are necessary to maintain the public trust while encouraging the facilitation of commercialization of university-generated technology or discovery.

History. Acts 1989, No. 29, § 1.

19-11-717. State-supported institutions of higher education.

(a)(1) Notwithstanding anything in this subchapter to the contrary, if, in either of the events in subdivisions (a)(1)(A) and (B) of this section, the contract or subcontract, solicitation, or proposal involves patents, copyrights, or other proprietary information in which a state-supported institution of higher education and an employee or former employee of the state-supported institution of higher education have rights or interests, provided that a contract or subcontract shall be approved by the governing board of the state-supported institution of higher education in a public meeting, it shall not be a violation of § 19-11-709, a conflict of interest, or a breach of ethical standards for:

(A) The state-supported institution of higher education to contract with a person or firm in which an employee or former employee of the state-supported institution of higher education has a financial interest; or

(B) The employee or former employee of the state-supported institution of higher education to participate directly or indirectly in a matter pertaining to a contract, subcontract, solicitation, or proposal for a contract or subcontract between a state-supported institution of

higher education and a person or firm in which the employee or former employee has a financial interest.

(2)(A) Within thirty (30) days of the approval by the governing board of a state-supported institution of higher education of a contract, subcontract, solicitation, or proposal executed under subdivision (a)(1) of this section, the state-supported institution of higher education shall file a summary of the contract, subcontract, solicitation, or proposal with the president of the state-supported institution of higher education.

(B) Failure to file the required summary with the president of the state-supported institution of higher education as required under subdivision (a)(2)(A) of this section renders the contract null and void.

(b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq., or in § 19-11-1001 et seq. shall prevent a state agency from contracting for goods or services, including professional or consultant services, with an organization that employs or contracts with a regular, full-time, or part-time employee of a state-supported institution of higher education in situations in which the employee of the state-supported institution of higher education will provide some or all of the goods or services under the contract.

(2) An organization or state agency entering into a contract described under this subsection shall comply with the Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq. to the extent that the Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq. do not conflict with this section.

(3) An employee of a state-supported institution of higher education who provides goods or services to a state agency through his or her association with an organization that has a contract with the state agency to provide goods or services shall obtain the requisite approvals under the policies of the state-supported institution of higher education by which he or she is employed and comply with all provisions of this subchapter.

(c)(1) No later than January 31 each year, an employee or former employee contracting or receiving benefits under this section shall file with the Secretary of State on a form provided by the Secretary of State a disclosure of the type and amount of the contract or benefits received during the previous year.

(2) Failure to file the required form with the Secretary of State as required under subdivision (c)(1) of this section is a breach of ethical standards.

History. Acts 1989, No. 875, § 1; 2005, No. 949, § 1; 2009, No. 735, § 1.

19-11-718. Special state employees — Conflicts of interest — Definitions.

(a) As used in this section:

(1)(A) "Conflict of interest" means a special state employee's direct or indirect pecuniary or other interest in a matter before a covered board.

(B) "Conflict of interest" includes without limitation the following:

(i) An offer of employment from an entity that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board;

(ii) Being an officer or employee of a business, association, or nonprofit organization that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board; and

(iii) Receiving compensation from an entity that is involved in a procurement matter or is involved in a discussion of a procurement matter with the covered board;

(2)(A) "Covered board" means:

(i) A commission, board, bureau, office, or other state instrumentality created within the executive branch; and

(ii) An entity that is created by regulation, statute, legislative direction, executive order, or other informal means if the entity has decision-making authority over procurement criteria, contracts, appointment of individuals to negotiate procurement directly or indirectly, or the approval of procurements.

(B) "Covered board" does not include the following:

(i) The constitutional departments of the state;

(ii) The elected constitutional offices of the state;

(iii) The General Assembly, including the Legislative Council, the Legislative Joint Auditing Committee, and supporting agencies and bureaus of the General Assembly;

(iv) The Supreme Court;

(v) The Court of Appeals;

(vi) The circuit courts;

(vii) Prosecuting attorneys;

(viii) The Administrative Office of the Courts;

(ix) An institution of higher education;

(x) A municipal government;

(xi) A county government;

(xii) An interstate agency; or

(xiii) A legislative task force or committee if the legislative task force or committee only advises the General Assembly; and

(3)(A) "Special state employee" means a person appointed to a covered board, regardless of whether the person:

(i) Receives compensation for his or her services;

(ii) Receives reimbursement for travel expenses;

(iii) Receives per diem; or

(iv) Was appointed formally or informally.

(B) "Special state employee" does not include a constitutional officeholder or an ex officio or nonvoting member of an entity described in subdivision (a)(2)(A) of this section.

(b) A special state employee shall disclose a conflict of interest in a procurement matter before the covered board:

(1) Either:

(A) In writing to the head of a covered board; or

(B) Orally or in writing at a public meeting of the covered board if the disclosure is included in the minutes of the public meeting; and

(2) By filing a conflict of interest disclosure report with the Secretary of State within five (5) business days of the date the special state employee becomes aware of the conflict of interest.

(c) A special state employee shall not vote on, receive or read confidential materials related to, participate in discussion of, or attempt to influence the covered board's decision on a procurement matter if the special state employee has a conflict of interest in the procurement matter.

(d) A special state employee who is a lobbyist registered under § 21-8-601 shall recuse himself or herself from a procurement matter before the covered board if:

(1) The special state employee receives compensation as a lobbyist from an entity involved in the procurement matter; or

(2) The procurement matter involves a person or entity that is a competitor of a lobbying client of the special state employee.

(e) A special state employee or former special state employee shall not:

(1) Represent an entity other than the state in a matter in which he or she participated in making a decision, rendering approval or disapproval, making a recommendation, or rendering advice on behalf of the covered board; or

(2) Assist or represent a party for contingent compensation in a matter involving a covered board other than in a judicial, administrative, or quasi-judicial proceeding.

(f) A former special state employee shall not lobby the members or staff of a covered board of which he or she is a former member for one (1) year after the cessation of the special state employee's membership on the covered board.

(g) A contract entered into by a covered board, including a renewal, extension, or amendment of a contract entered into by a covered board, shall include a statement that no special state employee has been influenced by the vendor in the course of the procurement.

(h)(1) A complaint about a violation of this section may be filed with the Arkansas Ethics Commission.

(2) A violation of this section is grounds for discipline or removal of the special state employee by the commission.

(i) The commission shall promulgate rules regarding disciplinary and removal proceedings for special state employees.

History. Acts 2015, No. 1287, § 2.

SUBCHAPTER 8 — PROCUREMENT OF PROFESSIONAL SERVICES

SECTION.

- 19-11-801. Policy — Definitions.
- 19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.
- 19-11-803. Evaluation of qualifications.

SECTION.

- 19-11-804. Selection.
- 19-11-805. Negotiation of contracts.
- 19-11-806. [Repealed.]
- 19-11-807. Design-build construction — Definitions.

Effective Dates. Acts 1995, No. 429, § 8: Feb. 24, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the state and political subdivisions are hampered in the ability to select the most qualified professional services since the present statutory definition of professional services excludes many professions that are vital to the successful completion of important public projects. Since each public entity is better able to determine which professional services it will need and since the public health, safety and welfare require that many of these public projects proceed as soon as possible, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 1331, § 8: became law without Governor’s signature. Noted April 14, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the state and its political subdivisions are hampered in the ability to select the most qualified professional services since the present statutory definition of professional services excludes many professions that are vital to the successful completion of important public projects. Since each public entity is better able to determine which professional services it will need and since the public health, safety and welfare require that

many of these public projects proceed as soon as possible, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 2005, No. 2154, § 2: Apr. 13, 2005. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school facilities in Arkansas are inadequate and inequitable; that the clarification of construction management as a project delivery method will increase the construction options of public schools entering into construction projects to improve their school facilities and assist in the process of improving current school facilities; and that the improvements to public school facilities through the use of construction management will ultimately benefit public school students and the state of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

19-11-801. Policy — Definitions.

(a) It is the policy of the State of Arkansas that state agencies shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, architectural,

engineering, construction management, and land surveying professional consultant services if:

(1) State agencies not exempt from review and approval of the Building Authority Division of the Department of Finance and Administration shall follow procedures established by the division for the procurement of architectural, engineering, land surveying, and construction management services; and

(2) Institutions of higher education exempt from review and approval of the division shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying, and construction management professional consultant services.

(b) It is the policy of the State of Arkansas and its political subdivisions that political subdivisions shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.

(c) For purposes of this subchapter, a political subdivision of the state may elect to not use competitive bidding for other professional services not listed in subsection (b) of this section with a two-thirds ($\frac{2}{3}$) vote of the political subdivision's governing body.

(d)(1) As used in this section, "construction management" means a project delivery method based on an agreement in which a state agency, political subdivision, public school district, or institution of higher education acquires from a construction entity a series of services that include, but are not limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

(2) "Construction management" includes, but is not limited to:

(A)(i) "Agency construction management", in which a public school district selects a construction manager to serve as an agent for the purpose of providing administration and management services.

(ii) The construction manager shall not hold subcontracts for the project or provide project bonding for the project;

(B) "At-risk construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor and the following conditions are met:

(i) The construction manager provides a maximum guaranteed price;

(ii) The public school district holds all trade contracts and purchase orders; and

(iii) The portion of the project not covered by the trade contracts is bonded and guaranteed by the construction manager; and

(C)(i) "General contractor construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor.

(ii) The general contractor shall hold all trade contracts and purchase orders and shall bond and guarantee the project.

(e) As used in this subchapter:

(1) "Political subdivision" means counties, school districts, cities of the first class, cities of the second class, and incorporated towns; and

(2) "Other professional services" means professional services not listed in subsection (b) of this section as defined by a political subdivision with a two-thirds ($\frac{2}{3}$) vote of its governing body.

History. Acts 1989, No. 616, § 1; 1995, No. 429, § 1; 1995, No. 1331, § 1; 2003, No. 1315, § 8; 2005, No. 2154, § 1; 2005, No. 2171, § 1.

Cross References. Projects exceeding two million dollars, § 14-58-1001.

CASE NOTES

ANALYSIS

In General.
Bid.

Competitive Bidding.
Consideration of Price.

In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The contracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Bid.

The term "bid" generally refers to an offer to perform a contract for work and

labor or supplying materials or goods at a specified price. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Competitive Bidding.

Competitive bidding is defined as bids which are submitted as a result of public notice and advertising of an intended sale or purchase. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

(a) In the procurement of professional services, a state agency or political subdivision which utilizes these services may encourage firms engaged in the lawful practice of these professions to submit annual statements of qualifications and performance data to the political subdivision or may request such information as needed for a particular public project.

(b) The state agency or political subdivision shall evaluate current statements of qualifications and performance data of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c)(1) The political subdivision shall not use competitive bidding for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consulting services.

(2) A political subdivision shall not use competitive bidding for the procurement of other professional services with a two-thirds ($\frac{2}{3}$) vote of its governing body.

(d)(1) A public school district that utilizes construction management services shall encourage construction management firms to submit to the school district annual statements of qualifications and performance data or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications and performance data on file with the school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

History. Acts 1989, No. 616, § 2; 1995, No. 429, § 2; 1995, No. 1331, § 2; 2003, No. 1315, § 9; 2005, No. 2171, § 2.

CASE NOTES

Cited: *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-803. Evaluation of qualifications.

In evaluating the qualifications of each firm, the state agency or political subdivision shall consider:

(1) The specialized experience and technical competence of the firm with respect to the type of professional services required;

(2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

(4) The firm's proximity to and familiarity with the area in which the project is located.

History. Acts 1989, No. 616, § 3; 2003, No. 1315, § 10.

CASE NOTES

Cited: *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-804. Selection.

(a) The state agency or political subdivision shall select three (3) qualified firms.

(b) The state agency or political subdivision shall then select the firm considered the best-qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

History. Acts 1989, No. 616, § 4; 2003, No. 1315, § 11.

CASE NOTES

ANALYSIS

Competitive Bidding.
Consideration of Price.

Competitive Bidding.

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-805. Negotiation of contracts.

(a) For the basis of negotiations, the state agency or political subdivisions and the selected firm shall jointly prepare a detailed, written description of the scope of the proposed services.

(b)(1)(A) If the state agency or political subdivision is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated.

(B) The state agency or political subdivision shall then undertake negotiations with another of the qualified firms selected.

(2)(A) If there is a failing of accord with the second firm, negotiations with the firm shall be terminated.

(B) The state agency or political subdivision shall undertake negotiations with the third qualified firm.

(c) If the state agency or political subdivision is unable to negotiate a contract with any of the selected firms, the state agency or political subdivision shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of this subchapter.

(d) When unable to negotiate a contract for construction management, a public school district also shall perform a reevaluation of services in accordance with subsection (c) of this section.

History. Acts 1989, No. 616, § 5; 1995, No. 429, § 3; 1995, No. 1331, § 3; 2003, No. 1315, § 12.

CASE NOTES

In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The con-

tracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

19-11-806. [Repealed.]

Publisher's Notes. This section, concerning cities of the first or second class and ordinances, was repealed by Acts

2005, No. 3, § 3. The section was derived from Acts 1995, No. 429, § 4; 1995, No. 1331, § 4.

19-11-807. Design-build construction — Definitions.

(a) As used in this section:

(1) "Design-build" means a project delivery method in which the school district acquires both design and construction services in the same contract from a single legal entity, referred to as the "design-builder", without competitive bidding;

(2)(A) "Design-builder" means any individual, partnership, joint venture, corporation, or other legal entity that is appropriately licensed in the State of Arkansas and that furnishes the necessary design services, in addition to the construction of the work, whether by itself or through subcontracts, including, but not limited to, subcontracts for architectural services, landscape architectural services, and engineering services.

(B) Architectural services, landscape architectural services, and engineering services shall be performed by an architect, landscape architect, or engineer licensed in the State of Arkansas.

(C) Construction contracting shall be performed by a contractor qualified and licensed under Arkansas law; and

(3) "Design-build contract" means the contract between the school district and a design-builder to furnish the architecture, engineering, and related services as required and to furnish the labor, materials, and other construction services for the same project.

(b)(1) Any school district may use design-build construction as a project delivery method for building, altering, repairing, improving,

maintaining, or demolishing any structure, or any improvement to real property owned by the school district.

(2) The design-builder shall contract directly with subcontractors and shall be responsible for the bonding of the project.

(3) A project using design-build construction shall comply with state and federal law.

(c) The Division of Public School Academic Facilities and Transportation shall develop and promulgate rules consistent with the provisions of this section concerning the use of design-build construction by school districts.

History. Acts 2005, No. 2155, § 1.

SUBCHAPTER 9 — PURCHASES OF WORK CENTER PRODUCTS AND SERVICES

SECTION.

19-11-901. Purchase required — Exception.

SECTION.

19-11-902. Rules — Definitions.

19-11-901. Purchase required — Exception.

(a) All suitable commodities and services, including small purchases, hereafter procured in accordance with applicable state specifications by or for any state department, institution, or agency shall be procured from nonprofit work centers for individuals with disabilities in all cases when such commodities are available within the period specified and at the fair market price for the article or articles so procured.

(b) Services offered by work centers shall be procured by competitive sealed bidding as specified by § 19-11-229, competitive sealed proposals as specified by § 19-11-230, or competitive bidding as specified by § 19-11-234, subject to purchase exceptions set forth in § 19-11-902.

(c) This section shall not apply in any cases in which products and services are available for procurement from any state department, institution, or agency, and procurement therefrom is required under the provisions of any law in effect on or after March 1, 1991.

History. Acts 2001, No. 1718, § 1.

19-11-902. Rules — Definitions.

(a) The Office of State Procurement shall be responsible for developing rules governing implementation of this subchapter.

(b) As used in this subchapter:

(1) “Commodities” means all property, including without limitation equipment, printing, stationery, supplies, and insurance, but excluding real property, leases on real property, or a permanent interest in real property;

(2) “Fiscal year” means July 1 of one (1) year through June 30 of the next year;

(3) "Individuals with disabilities" means those persons who have a medically or psychiatrically determined physical, mental, or developmental disability constituting a substantial vocational handicap;

(4) "Ordering office" means any state department, independent establishment, board, commission, bureau, service, or division of state government and any wholly owned state corporation;

(5) "Products", for purposes of this subchapter, means commodities or services wherein the price of the commodities includes at least twenty percent (20%) value added when the work center is awarded a contract using the ten percent (10%) preference, and in the case of services, that they are performed by individuals with disabilities;

(6)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of the Building Authority Division of the Department of Finance and Administration;

(7) "Sheltered workshop" means a work center which has:

(A) Certification from the United States Department of Labor as a sheltered workshop; and

(B) Been licensed by the Division of Developmental Disabilities Services of the Department of Human Services or certification from Arkansas Rehabilitation Services;

(8)(A) "Work center" means any facility certified by Arkansas Rehabilitation Services where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing evaluation, training, and gainful employment to individuals with disabilities in Arkansas:

(i) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or

(ii) During such time as employment opportunities for them in the competitive labor market do not exist.

(B) "Work center" includes without limitation:

(i) A sheltered work center; and

(ii) A work center for the blind; and

(9) "Work center for the blind" means a facility certified by the Division of State Services for the Blind of the Department of Human Services where any manufacture, handiwork, or provision of services is carried on and that is operated to provide evaluation, training, and gainful employment to individuals in the State of Arkansas eligible for services from the Division of State Services for the Blind:

(A) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market;

(B) During such time as employment opportunities for individuals in the State of Arkansas eligible for service from the Division of State Services for the Blind in the competitive labor market do not exist; or

(C) For whom such placement represents informed choice as appropriate employment at a competitive wage.

(c) All state agencies as defined in § 19-11-203 are required to purchase their requirements of needed available and suitable products and purchase suitable services from nonprofit work centers for individuals with disabilities, unless such commodities and services are authorized by prior legislation for production in another state agency, department, or institution.

(d)(1) The Office of State Procurement shall issue to all state agency purchasing agents a schedule of commodities and services made by the work center and the conditions under which they are to be procured from the workshops.

(2) The schedule shall include the item or service description.

(e) Arkansas Rehabilitation Services and the Division of State Services for the Blind shall undertake the inspection on a continuing basis of the workshops certified by each respective state agency to determine that they operate in accordance with the requirements of the statute and the regulations of this section.

(f)(1)(A) In order to qualify for participation in the program as a work center, an organization shall submit an application to the Office of State Procurement.

(B) If required for all vendors, there should be included a list of the commodities and services offered for sale to the state.

(2) Work centers shall:

(A) Furnish commodities and services in strict accordance with the allocation and government order;

(B) Maintain records of wages paid, hours of employment, and sales;

(C) Make available pertinent books and records of the state agency for inspection at any reasonable time to representatives of Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable; and

(D)(i) Submit to Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable, by September 1 an annual report for the preceding fiscal year.

(ii) This report shall include data on individuals with disabilities who are workers, wages and wage supplements, hours of employment, sales, whether the workshop requires a facilities sheltered workshop certificate from the United States Department of Labor and special minimum rates authorized where such certificate is held, and such other relevant information as may be required.

(g) When a commodity or service is identified in the schedule of work center-made commodities and services as being available through the Office of State Procurement, it shall be obtained in accordance with the requisitioning procedures of the supplying state agency.

(h) An ordering office may purchase from a nonworkshop source commodities or services listed in the schedule of commodities and services made by the work center in any of the following circumstances:

(1) Necessity requires delivery within the specified period, and the work center cannot give assurance of positive availability;

(2) When commodities listed on the schedule of work center-made commodities can be purchased from a non-work-center source by the state agency for a price more than ten percent (10%) lower than commodities made by the work center included in the schedule; or

(3) Services offered by any work center shall be procured by any state agency in accordance with this section at a price not more than ten percent (10%) above the lowest price submitted from a non-work-center source.

(i) Product commodities made by a work center shall be delivered in accordance with the terms of the purchase order.

(j) When a workshop fails to comply with the terms of a government order, the ordering office shall make reasonable efforts to negotiate an adjustment before taking action to cancel the order.

(k) Any alleged violation of these regulations shall be investigated by the Office of State Procurement, which shall notify the work center concerned and afford it an opportunity to submit a statement of facts and evidence.

History. Acts 2001, No. 1718, § 1; 2007, No. 186, § 7; 2011, No. 807, § 1.

Amendments. The 2011 amendment deleted former (b)(1) and (b)(3), inserted present (b)(3), and redesignated the remaining subdivisions accordingly; added present (b)(8)(B)(ii) and (b)(9); in (e), in-

serted “and the Division of State Services for the Blind” and substituted “each respective state agency” for “Arkansas Rehabilitation Services”; and inserted “or the Division of State Services for the Blind, as applicable” in (f)(2)(C) and (f)(2)(D)(i); and made stylistic changes.

SUBCHAPTER 10 — PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS

SECTION.

- 19-11-1001. Definitions.
- 19-11-1002. Purpose of contracts.
- 19-11-1003. Contracts exempted.
- 19-11-1004. Restrictions on contracts.
- 19-11-1005. General guidelines and regulations.
- 19-11-1006. Submission of contracts required.
- 19-11-1007. Certification by agency head.
- 19-11-1008. Approval or disapproval of contracts.

SECTION.

- 19-11-1009. Filing of contracts.
- 19-11-1010. Development and use of performance-based contracts — Findings.
- 19-11-1011. Review requirement.
- 19-11-1012. Standard contract forms.
- 19-11-1013. Vendor performance reporting.
- 19-11-1014. Compliance reporting.

Effective Dates. Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to

the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and

implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Pro-

gram; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 557, § 9: Aug. 1, 2015.

19-11-1001. Definitions.

As used in this subchapter:

(1) “Consultant services contract” means a contract between a state agency and an individual or organization in which:

(A) The service to be rendered to the state agency or to a third-party beneficiary under the contract is primarily the giving of advice by the contractor on a particular problem facing the state agency or the third-party beneficiary;

(B) The contractor is an independent contractor with respect to the state agency;

(C) The state agency does not exercise managerial control over the day-to-day activities of the contractor; and

(D) The contract specifies the results expected from the services to be rendered by the contractor and the advice or assistance to be provided;

(2) “Contractor” means any person or organization that executes a contract with a state agency under which the person or organization agrees to provide professional services or consultant services to the state agency, and the individuals performing the services are not state employees occupying regular full-time or part-time or extra help positions provided by law;

(3)(A) “Design professional contract” means a contract that is primarily for:

(i) Minor projects that are time-critical; and

(ii) Minor remodeling projects that do not exceed one million dollars (\$1,000,000) in cost.

(B) Design professional contracts are primarily for the procurement of architectural, engineering, and professional services competitively selected under § 19-11-801 et seq.

(C) Design professional contracts shall be reviewed by the agency or institution at least yearly and adjusted to reflect historical expenditures.

(D)(i) A state agency shall follow applicable Building Authority Division of the Department of Finance and Administration guidelines, procedures, and rules for the selection and award of contracts.

(ii) However, a guideline, procedure, or rule of the division shall not increase or decrease the:

(a) Dollar amount under subdivision (3)(A)(ii) of this section; or

(b) Specified period under § 19-11-238(a).

(E) Institutions of higher education that are exempt from review and approval of the division shall comply with the provisions of this section;

(4) "Director" means the State Procurement Director;

(5) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing professional services for any state agency;

(6) "Professional services contract" means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary; and

(7) "State agency" means any department, agency, board, commission, or institution of higher education of the State of Arkansas.

History. Acts 2003, No. 1315, § 13; 2007, No. 478, § 7; 2009, No. 532, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Professional and Consultant Services, 26 U. Ark. Little Rock L. Rev. 461.
Legislation, 2003 Arkansas General Assembly, Public Finance, Contracts for Pro-

19-11-1002. Purpose of contracts.

The principal purpose of a professional services contract or a consultant services contract is the procurement of services by the state agency rather than the procurement of commodities.

History. Acts 2003, No. 1315, § 13; 2005, No. 1680, § 14.

19-11-1003. Contracts exempted.

(a) This subchapter shall not apply to the contracts of the Arkansas State Highway and Transportation Department that are covered by the technical work requirements and administrative controls of the Federal Highway Administration, nor shall the provisions of this subchapter be applicable to contracts entered into by the department in which the costs and fees are established by competitive bidding.

(b) This subchapter shall not apply to contracts of institutions of higher education that are for services related to patents, copyrights, or trademarks.

(c) This subchapter does not apply to contracts created under federally approved state plans for services reimbursed under Title V of the Social Security Act, 42 U.S.C. §§ 701 — 710, or Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 — 1396v, as they existed on January 1, 2001, if those contracts and services conform to all applicable federal laws and rules, and to the ethical standards provided for in § 19-11-704.

History. Acts 2003, No. 1315, § 13; **Amendments.** The 2015 amendment 2009, No. 605, § 22; 2009, No. 606, § 22; repealed former (d). 2015, No. 218, § 23.

19-11-1004. Restrictions on contracts.

(a) No contract under this subchapter shall be used to avoid the purpose or the spirit of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

(b) No contract shall be approved that would be in violation of § 19-4-701 et seq. relating to expenditures.

(c)(1) Except as provided in this subsection, no state agency shall engage in a professional services or consultant services contract with a part-time or full-time employee who occupies a position authorized to be paid from extra help or regular salaries for a state agency, except as provided in § 21-1-403.

(2) However, this subsection does not prohibit an institution of higher education from executing a contract with a state agency under which professional or consulting services will be performed by employees of the institution of higher education.

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the Office of Personnel Management concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized

by law for the employee's position with the institution of higher education.

(d) No director or any other department head of any state agency shall receive additional compensation under this subchapter.

(e)(1) Any contract under which a state agency retains day-to-day managerial control over the person performing the services or in which the relationship between the contractor and the state agency is that of employer and employee is not a professional services contract and is prohibited.

(2) However, the Department of Information Systems may employ persons over whom they exercise day-to-day managerial control for those services under § 25-4-112 for which professional services contracts may be used.

History. Acts 2003, No. 1315, § 13.

19-11-1005. General guidelines and regulations.

The State Procurement Director, after soliciting suggestions from state agencies and after seeking and receiving the advice of the Attorney General and review by the Legislative Council or by the Joint Budget Committee, if the General Assembly is in session, shall publish general guidelines for the procurement of professional and consultant services contracts and general regulations governing the use of each type of contract.

History. Acts 2003, No. 1315, § 13.

19-11-1006. Submission of contracts required.

(a)(1) A professional services contract or consultant services contract shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, before the execution of the professional services contract or consultant services contract if the total initial amount or the total projected amount, including any amendments or possible extensions, of the professional services contract or consultant services contract is at least fifty thousand dollars (\$50,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with its review as to the propriety of the professional services contract or consultant services contract within thirty (30) days after receipt of the proposed professional services contract or consultant services contract.

(3) The professional services contract or consultant services contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Finance and Administration has reviewed the professional services contract or consultant services contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the professional services contract or consultant services contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any professional services contract or consultant services contract or group of professional services contracts or consultant services contracts contemplated by this subchapter.

(c)(1) Funds from grants and contracts to a state institution of higher education may be used for the purpose of subcontracting with institutions under the performance conditions of the grants or contracts.

(2) Subcontracts for research that are derived from grants and contracts to a state institution of higher education require the prior approval of the director and a review by the Legislative Council or by the Joint Budget Committee.

(d)(1) In addition to the professional services contracts and consultant services contracts presented to the Legislative Council or to the Joint Budget Committee under subsection (a) of this section, the director shall compile a monthly report of all executed professional services contracts and consultant services contracts if the total initial amount or the total projected amount, including any amendments or possible extensions, of the professional services contract or consultant services contract is at least ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000).

(2) The monthly report required under this subsection shall include without limitation:

- (A) The name of the contractor;
- (B) The state agency name;
- (C) The contact information for the contractor or state agency;
- (D) The total initial cost of the professional services contract or consultant services contract;
- (E) The type of services contracted;
- (F) The quantity of services contracted;
- (G) The procurement method;
- (H) The total projected amount of the professional services contract or consultant services contract that includes any amendments and all available extensions; and
- (I) Any other information requested by the Legislative Council or the Joint Budget Committee.

(3) The director shall remit the report each month to the Legislative Council or to the Joint Budget Committee as directed by the Legislative Council.

(e) A contract that is procured by a state agency with a state agency procurement official is subject to the reporting and presentment requirements under this section.

(f) It is a violation of state procurement laws, Arkansas Code Title 19, Chapter 11, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the reporting or presentment requirements of this section.

History. Acts 2003, No. 1315, § 13; **Amendments.** The 2013 amendment 2013, No. 1189, § 4; 2015, No. 557, § 7. substituted “fifty thousand dollars

(\$50,000)” for “twenty-five thousand dollars (\$25,000)” in (a)(1) and made stylistic changes.

The 2015 amendment inserted “professional services contract or consultant ser-

vices” preceding “contract” throughout the section; rewrote (a)(1); and added (d)-(f).

19-11-1007. Certification by agency head.

The head of every state agency shall certify by his or her signature on each contract entered into by that state agency that:

- (1) All information required by law and by regulation is supplied;
- (2) The proper contracting form is utilized;
- (3) All information contained in the contract is true and correct to the best of his or her knowledge and belief;
- (4) All general guidelines prescribed by the State Procurement Director have been complied with;
- (5) The services proposed to be provided under the contract are necessary for operation of the state agency in fulfilling its legal responsibilities and cannot be provided by any existing state agency;
- (6) The contractor is fully qualified to perform the contract and has no vested interest in the subject matter of the contract that would constitute a conflict of interest and a bar to the contractor’s providing services of a professional and disinterested quality;
- (7) The contract terms are reasonable and the benefits to be derived are sufficient to warrant the expenditure of the funds called for in the contract;
- (8) Sufficient funds are available to pay the obligations when they become due; and
- (9) A projected total cost of the contract is provided to include expenditures that may be incurred under all available periods of extension if the extensions were executed.

History. Acts 2003, No. 1315, § 13; 2005, No. 1680, § 15.

19-11-1008. Approval or disapproval of contracts.

(a) The State Procurement Director may make whatever additional inquiry he or she deems necessary and may require that additional information be supplied if he or she has reason to believe that the contract should be rejected because it does not comply with this subchapter.

(b) The director shall return to the contracting state agency any contract which fails to comply with the applicable laws and regulations governing the contract and shall approve any contract that complies with this subchapter.

(c)(1) The director shall have final and ultimate authority over the supervision and approval of all contracts described in this subchapter.

(2) However, the director shall seek review of the Legislative Council or the Joint Budget Committee before approving or disapproving any contract or class or group of contracts authorized under this subchapter,

unless the Legislative Council or Joint Budget Committee specifically exempts the contract or class or group of contracts by formal committee action.

History. Acts 2003, No. 1315, § 13.

19-11-1009. Filing of contracts.

Service contracts filed with a state agency under § 19-4-1109 shall be available for public inspection and auditing purposes.

History. Acts 2003, No. 1315, § 13.

19-11-1010. Development and use of performance-based contracts — Findings.

(a) Performance-based contracts provide an effective, efficient method of monitoring and evaluating the overall quality of services provided.

(b) The practice of including benchmark objectives that the provider must attain at specific intervals during the term of the contract is an essential requirement for measuring performance.

(c) Under regulations promulgated by the State Procurement Director, all state agencies, boards, commissions, and institutions of higher education shall use performance-based standards in professional and consultant service contracts.

History. Acts 2003, No. 1315, § 13.

19-11-1011. Review requirement.

(a)(1) Every contract for professional consultant services covered by this subchapter that is executed using the professional and consultant service contract form approved by the State Procurement Director shall be filed with the Office of State Procurement of the Department of Finance and Administration.

(2) The execution date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract is to begin and not the date upon which the agreement was made.

(b)(1) No purchase order shall be paid if a copy of the contract under which the payment is being made has not previously been filed with the Office of State Procurement.

(2) No payment shall be made covering services rendered prior to the execution date of the contract.

(c)(1) It is the intent of the General Assembly that this section be strictly construed and enforced.

(2) However, in the unusual event that an obligation has been incurred by a state agency under any contractual agreement or proposed contract prior to the approval of the contract, the Chief Fiscal

Officer of the State may approve payment for such services after having first received the review of the Legislative Council.

History. Acts 2003, No. 1315, § 13;
2005, No. 1680, § 16.

19-11-1012. Standard contract forms.

(a) The State Procurement Director shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items, plus such additional items as the director shall deem desirable for the purposes of this subchapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the state agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars which the state agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6)(A) The names of all individuals who will be supplying services to the state agency or to third-party beneficiaries under the terms of the contracts, so far as those names are known to the contractor at the time of the execution of the contract.

(B) If the names of all individuals supplying services under the contract are not available at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) When the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8)(A) A certification signed by the contractor shall be included as follows:

“_____ (name) _____ (title)

I _____, certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract.”

(B) As used in subdivision (b)(8)(A) of this section, it shall be understood that when the contractor is a widely held public corporation “direct or indirect monetary benefit” shall not apply to any regular corporate dividends paid to a stockholder of the corporation

who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9)(A) For any contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed fifty thousand dollars (\$50,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the director.

(B)(i) However, should the state agency enter into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract which utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the director.

(ii) This reporting shall be done to allow the director to determine whether the state agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate regulations;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause:

“In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes.

“This provision shall not be construed to abridge any other right of termination the agency may have.”

(c) For the purpose of reporting methods of finance, a state agency shall disclose the total estimated project cost in addition to any other reporting requirements of the Legislative Council or the Joint Budget Committee.

History. Acts 2003, No. 1315, § 13; substituted “fifty thousand dollars 2005, No. 1680, § 17; 2013, No. 1189, § 5. (\$50,000)” for “twenty-five thousand dollars (\$25,000)” in (b)(9)(A).

Amendments. The 2013 amendment

19-11-1013. Vendor performance reporting.

(a)(1) A state agency shall report a vendor’s performance under a contract issued under this subchapter that has a total initial contract amount or total projected contract amount, including any amendments to or possible extensions of the contract, of at least twenty-five thousand dollars (\$25,000) for contracts.

(2) A state agency shall use the form prescribed by the State Procurement Director and approved by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, to report a vendor’s performance under this section.

(b) The report required under this section shall be:

(1) Completed and submitted:

(A) At least one (1) time every three (3) months for the entire term of the contract; and

(B) At the end of the contract;

(2) Filed with the Office of State Procurement and maintained for a minimum of three (3) years from the termination of the relevant contract, including any extensions and amendments; and

(3) Signed by the director of the state agency or his or her designee.

History. Acts 2015, No. 557, § 8.

19-11-1014. Compliance reporting.

(a) Each report required under this subchapter shall be copied to the Director of the Department of Finance and Administration, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq.

(b) If the director determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq., the director shall notify the chief executive officer of the relevant state agency.

History. Acts 2015, No. 557, § 8.

SUBCHAPTER 11 — PURCHASE OF TECHNOLOGY SYSTEMS

SECTION.

19-11-1101. Contracts.

19-11-1102. Shared Benefit Payment Fund.

SECTION.

19-11-1103. [Repealed.]

Effective Dates. Acts 2003, No. 1095, § 3, Apr. 4, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an urgent need for funding for the purchase of technology to increase efficiency and more effectively administer the areas of government that are charged with the responsibility for administering and collecting revenue for the state; that legislation is needed for enabling state agencies to more quickly utilize private sector information technologies that pay for themselves directly from a portion of additional state revenues; that there are vendors who will agree to contract with the state to deliver such technology in consideration for the

payment of the technology from a portion of the increase in revenue that would result from the use of the more efficient technology solution; that such contracts would not obligate the state to funding and payment of the technology prior to its purchase; that the contracts would provide for payment to vendors only in the event that revenues increased as a result of the implementation and use of the technology solution; and that this act is immediately necessary because there is an urgent need for this technology. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act

dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

19-11-1101. Contracts.

(a) An agency procurement official or procurement agent may enter into contracts to acquire technology systems for performing the revenue-generating functions and duties of the agency, including, but not limited to, registration, processing, and collection functions.

(b) Any contract entered into under this subchapter between an agency procurement official or procurement agent and a vendor of technology systems shall provide for:

(1) Payment of the technology systems on the basis of a percentage of the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, for a fixed time period, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system; or

(2) Payment of the technology system on a fixed fee contract basis, the fee to be paid from the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system.

(c)(1) All contracts authorized by this subchapter shall be entered into pursuant to the requirements of the Arkansas Procurement Law, § 19-11-201 et seq., and amendments thereto.

(2) Prior to execution of the contract, the following process shall be followed:

(A) The requesting agency shall request approval from the Chief Fiscal Officer of the State to prepare a request for proposal for a project authorized under this subchapter;

(B) The request shall include the general nature of the project, the anticipated revenues that will be enhanced, and the forecasted revenues for the current biennium;

(C) Upon approval of the Chief Fiscal Officer of the State, the requesting agency shall prepare a request to the Department of Finance and Administration for approval to prepare a request for proposal for a technology project authorized under this subchapter;

(D) The request must include the revenue source or sources that will be increased as a result of the project and the projected revenues for the anticipated life of the project;

(E) The requesting agency shall prepare a request for proposal, with advice and consultation from the department, for the purchase of technology systems on the basis of a portion of the increase in the agency's revenues produced by the technology system; and

(F)(i) The request for proposal may provide that the agency and the vendor may negotiate an amount or baseline upon which the increase in taxes or fees is measured.

(ii) Any contract other than a fixed fee contract shall include a factor in the baseline calculation to account for an increase in taxes or fees due solely to economic factors and not to the use of the technology.

(3) The agency procurement official or procurement agent and the vendor shall negotiate the contract, with the oversight of the department to assist in negotiating an advantageous contract.

(4)(A) The agency director shall submit the proposed contract and a request for new appropriation to the Governor or his or her designee.

(B) The accompanying information will include the methodology used to calculate the baseline amount proposed by the agency and other justifications and information that detail the program and the expected benefits of the agreement.

(C) The Governor or his or her designee shall study the request and determine whether the appropriation requested and the terms of the proposed contract are in strict compliance with this subchapter.

(D)(i) The Governor may approve or modify the request for new appropriation and the proposed contract.

(ii) Any modification of the proposed contract shall be submitted to the vendor for approval.

(5)(A) Upon approval of the shared benefit agreement and new appropriation request, the Governor shall seek the advice and recommendation of the Legislative Council.

(B) Upon review of the Legislative Council, the Governor shall forward a copy of his or her approvals to the agency director and the Chief Fiscal Officer of the State.

(d) After receipt of the Governor's approvals, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section from the shared benefit holding appropriation.

(e) The requesting agency may utilize these appropriations to implement the approved contract.

(f) Nothing in this section shall prohibit an agency that enters into a contract according to this section from acquiring any goods or services through appropriations for any function or program of that agency not specifically included in any contract entered into according to this section.

(g) The Chief Fiscal Officer of the State may promulgate such rules, regulations, procedures, and guidelines as he or she may deem necessary and proper in order to carry out the provisions of this section.

History. Acts 2003, No. 1095, § 1; 2007, No. 751, § 9.

19-11-1102. Shared Benefit Payment Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Shared Benefit Payment Fund".

(b)(1) All moneys collected under this subchapter shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the state agencies to pay vendors for contracts entered into under this subchapter.

(d) The fund shall consist of the amount of taxes or fees collected for the relevant time period less the baseline amount stated in each technology purchase contract entered into pursuant to § 19-11-1101, which difference is attributable to the implementation and use of the technology systems as provided in the contract and approved under the provisions of § 19-11-1101(c).

(e) As soon as practical after the close of each month during the biennial period beginning July 1, 2003, and thereafter, each agency purchasing official who has a technology purchase contract shall determine the difference between the amount of taxes or fees collected and the contract baseline amount and report these findings to the Chief Fiscal Officer of the State.

(f) The Chief Fiscal Officer of the State shall certify to the Treasurer of State the following:

(1) The amounts determined in subsection (e) of this section for transfer to the fund; and

(2) That portion of the amount determined in subsection (e) of this section which is currently required to be paid to each technology contract vendor.

(g) The Treasurer of State shall make the transfer of the amount determined in subdivision (f)(1) of this section, after making the deduction required from the net special revenues as set out in § 19-5-203(b)(2)(A).

History. Acts 2003, No. 1095, § 2.

19-11-1103. [Repealed.]

Publisher's Notes. This section, concerning exemptions, was repealed by Acts 2015, No. 218, § 24. This section was

derived from Acts 2009, No. 605, § 23; 2009, No. 606, § 23.

SUBCHAPTER 12 — GUARANTEED ENERGY COST SAVINGS ACT

SECTION.

- 19-11-1201. Title.
 19-11-1202. Definitions.
 19-11-1203. Energy cost savings measures authorized.
 19-11-1204. Method of solicitation.
 19-11-1205. Evaluation of responses to solicitations.

SECTION.

- 19-11-1206. Guaranteed energy cost savings contract requirements.
 19-11-1207. Administration of subchapter — Fees.
 19-11-1208. Use of maintenance and operation appropriations.

19-11-1201. Title.

This subchapter shall be known and may be cited as the “Guaranteed Energy Cost Savings Act”.

History. Acts 2005, No. 1761, § 1.

19-11-1202. Definitions.

As used in this subchapter:

(1)(A) “Energy cost savings measure” means:

(i) A new facility that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that:

(a) Do not degrade the level of service or working conditions;

(b) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, as adopted by the Arkansas Energy Office in the rules required under § 19-11-1207; and

(c) Are measured and verified by an audit performed by a qualified provider; or

(ii) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that conform with subdivisions (1)(A)(i)(a) and (b) of this section.

(B) “Energy cost savings measure” includes:

(i) Insulation and reduced air infiltration of the building structure, including walls, ceilings, and roofs or systems within the building;

(ii) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(iii) Automated or computerized energy control systems, including computer software and technical data licenses;

(iv) Heating, ventilating, or air conditioning system modifications or replacements;

(v) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is

necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

- (vi) Indoor air quality improvements;
- (vii) Energy recovery systems;
- (viii) Electric system improvements;
- (ix) Life safety measures that provide long-term, operating-cost reductions;
- (x) Building operation programs that reduce operating costs;
- (xi) Other energy-conservation-related improvements or equipment, including improvements or equipment related to renewable energy;

(xii) Water and other natural resources conservation; or

(xiii) An alteration or measure identified through a comprehensive audit or assessment of new or existing facilities;

(2)(A) “Guaranteed energy cost savings contract” means a contract for the implementation of one (1) or more energy cost savings measures and services provided by a qualified provider in which the energy and cost savings achieved by the installed energy project cover all project costs, including financing, over a specified contract term.

(B) “Guaranteed energy cost savings contract” does not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply;

(3) “Operational cost savings” means expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(4) “Public notice” means the same as “public notice” is defined in § 19-11-203;

(5) “Qualified provider” means a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

(A) Is properly licensed in the State of Arkansas;

(B) Has been reviewed and certified by the office as a qualified provider under this subchapter;

(C) Is experienced in the design, implementation, measurement, verification, and installation of energy cost savings measures;

(D) Has at least five (5) years of experience in the analysis, design, implementation, installation, measurement, and verification of energy efficiency and facility improvements;

(E) Has the ability to arrange or provide the necessary financing to support a guaranteed energy cost savings contract; and

(F) Has the ability to perform under a contract that requires the person or business to guarantee the work performed by one (1) or more subcontractors; and

(6) “State agency” means the same as “state agency” is defined in § 19-11-203.

History. Acts 2005, No. 1761, § 1; 2013, No. 554, §§ 2–4.

Amendments. The 2013 amendment rewrote (1)(A)(i)(b); deleted “independent”

preceding “audit” in (1)(A)(i)(c); substituted “a qualified provider” for “qualified energy service companies” in (2)(A); and rewrote (5).

19-11-1203. Energy cost savings measures authorized.

(a)(1) A state agency may enter into a guaranteed energy cost savings contract in order to reduce energy consumption or operating costs of government facilities in accordance with this subchapter.

(2) A state agency or several state agencies together may enter into an installment payment contract or lease purchase agreement with a qualified provider for the purchase and installation of energy cost savings measures in accordance with this subchapter.

(b) All energy cost savings measures shall comply with current local, state, and federal construction and environmental codes and regulations.

(c) The provisions of the Arkansas Procurement Law, § 19-11-201 et seq., shall control if there is any conflict with that law and the provisions of this subchapter.

History. Acts 2005, No. 1761, § 1.

19-11-1204. Method of solicitation.

Any solicitation of a guaranteed energy cost savings contract by a state agency shall be consistent with the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 2005, No. 1761, § 1.

19-11-1205. Evaluation of responses to solicitations.

(a) In a state agency’s evaluation of each qualified provider’s response to a solicitation under § 19-11-1204, the state agency shall include an analysis of:

(1) Whether the qualified provider meets the objectives of the solicitation, including without limitation a reduction in the state agency’s energy consumption or operating costs resulting from a guaranteed energy cost savings contract with the qualified provider;

(2) The qualifications and experience of the qualified provider;

(3) The technical approach to the energy cost savings measures;

(4) The financial aspects of the energy cost savings measures;

(5) The overall benefit to the state agency; and

(6) Any other relevant factors.

(b) After evaluating a response to a solicitation as required under subsection (a) of this section, a state agency may:

(1) Reject the response; or

(2) Award a contract to a qualified provider to conduct an energy audit to be used in developing the guaranteed energy cost savings contract.

History. Acts 2005, No. 1761, § 1; 2013, No. 554, § 5. rewrote the section catchline and the section.

Amendments. The 2013 amendment

19-11-1206. Guaranteed energy cost savings contract requirements.

(a) The following provisions are required in a guaranteed energy cost savings contract:

(1) A statement that the state agency shall maintain and operate the energy cost savings measures as defined in the guaranteed energy cost savings contract; and

(2) A guarantee by the qualified provider that:

(A) The energy cost savings and operational cost savings to be realized over the term of the guaranteed energy cost savings contract meet or exceed the costs of the energy cost savings measures; and

(B) If the annual energy or operational cost savings fail to meet or exceed the annual costs of the energy cost savings measure as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the state agency for any shortfall of guaranteed energy cost savings over the term of the guaranteed energy cost savings contract.

(b) The maximum term for a guaranteed energy cost savings contract is twenty (20) years after the implementation of the energy cost savings measures.

(c) Before entering into a guaranteed energy cost savings contract, the state agency shall require the qualified provider to file with the state agency a payment and performance bond or similar assurance as provided under § 19-11-235.

History. Acts 2005, No. 1761, § 1; 2013, No. 554, § 6.

Amendments. The 2013 amendment rewrote the section heading; in the introductory language of (a), added “The following provisions are required in” at the beginning and deleted “shall include the properly state licensed qualified provider’s guarantee that” from the end; inserted present (a)(1) and (2); redesignated former (a)(1) and (a)(3) as (a)(2)(A) and (a)(2)(B); deleted former (a)(2); in (a)(2)(A) inserted “cost savings” and deleted “shall” preceding “meet”; substituted “over the term of the guaranteed energy cost savings contract” for “on an annual basis” in (a)(2)(B); rewrote (b); and substituted “payment and” for “bid bond” in (c).

19-11-1207. Administration of subchapter — Fees.

The Arkansas Energy Office:

(1) Shall:

(A) Administer this subchapter; and

(B) Promulgate rules for the administration of this subchapter within nine (9) months of the effective date of this subchapter, including without limitation the following:

(i) Standards for measuring and verifying the performance of energy cost savings measures;

(ii) A standard contract form for use by a state agency in entering into a guaranteed energy cost savings contract; and

(iii) The adoption of the International Performance Measurement and Verification Protocol as it existed on a specific date; and

(2) May establish and collect a reasonable fee to cover the costs of administering this subchapter.

History. Acts 2013, No. 554, § 7.

19-11-1208. Use of maintenance and operation appropriations.

(a) Notwithstanding any law to the contrary, a state agency may utilize maintenance and operations appropriations for the payment of equipment and energy cost savings measures required by a guaranteed energy cost savings contract.

(b) An energy cost savings measure shall be treated as an energy efficiency project under Arkansas Constitution, Amendment 89.

History. Acts 2013, No. 554, § 7; 2013, No. 1252, § 6.

Amendments. The 2013 amendment added (b).

SUBCHAPTER 13 — PARTIAL EQUITY OWNERSHIP AGREEMENT EXECUTED BY A STATE RETIREMENT SYSTEM

SECTION.

19-11-1301. Definition.

19-11-1302. Review of partial equity ownership agreements.

19-11-1303. Imminent need to enter into partial equity ownership agreement.

SECTION.

19-11-1304. Retrospective review of partial equity ownership agreement to ensure disclosure.

Effective Dates. Acts 2009, No. 1211, § 3: Apr. 7, 2009. Emergency clause provided "It is found and determined by the General Assembly of the State of Arkansas that a partial equity ownership agreement is fundamentally and substantially different than a state contract for commodities, technical and general services, and professional and consultant services that are procured under the Arkansas Procurement Law § 19-11-201 et seq., and other contracts currently procured under Arkansas Code, Title 19, Chapter 11; that frugal investment practices often require a minimum duration of ten (10) years or more for the interest to mature; that a partial equity ownership agreement is necessary for certain size trust funds to fulfill the requirements of the prudent investor rule; that a partial equity ownership agreement should be sub-

ject to a procurement process that is unique to the partial equity ownership agreement; that currently there is a lack of clarification in the law regarding a proper review process for partial equity ownership agreements; and that this new section will resolve the issue with the intent to preserve the review process for a partial equity ownership agreement and allow flexibility in the review for a narrow and clearly defined exception. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is

overridden, the date the last house overrides the veto.”

19-11-1301. Definition.

As used in this subchapter, “partial equity ownership agreement” means an agreement with a legal entity, including without limitation a partnership, a limited partnership, a limited liability company, or similar legal entity that:

- (1) Includes a state retirement system as a partner, a limited partner, or a partial owner;
- (2) Creates an equity interest or ownership position for the state retirement system; and
- (3) Utilizes retirement trust funds that are not appropriated by the General Assembly.

History. Acts 2009, No. 1211, § 2.

19-11-1302. Review of partial equity ownership agreements.

(a) A partial equity ownership agreement is subject to review by submission of the partial equity ownership agreement to the Office of State Procurement and the Legislative Council under this section.

(b) Since the partial equity ownership agreement is fundamentally and substantially different from a state contract for commodities, goods, and services that are reviewed under the Arkansas Procurement Law, § 19-11-201 et seq., or other contract that is reviewed under subchapters 1-12 of this chapter, and since the partial equity ownership agreement is utilizing retirement trust funds that are not appropriated by the General Assembly, the partial equity ownership agreement is not subject to:

(1) A limitation of the term or duration of the partial equity ownership agreement; or

(2) An annual renewal clause.

(c) When submitting a partial equity ownership agreement for review, the state retirement system shall provide information that includes without limitation:

(1) The managing parties to the partial equity ownership agreement;

(2) The state retirement system’s interest and ownership in the partial equity ownership agreement;

(3) The reason for the formation of or entry into the partial equity ownership agreement;

(4) Justification that the duration of the partial equity ownership agreement is necessary to serve the best interests of the retirants under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619;

(5) The anticipated date of implementation of the partial equity ownership;

(6) The anticipated termination date of the partial equity ownership agreement; and

(7) Other information regarding the terms of the partial equity ownership agreement that the office or the Legislative Council may reasonably require for an adequate review.

History. Acts 2009, No. 1211, § 2.

19-11-1303. Imminent need to enter into partial equity ownership agreement.

(a) In lieu of a review under § 19-11-1302, a partial equity ownership agreement that necessitates immediate formation shall be reviewed by the Office of State Procurement and the Legislative Council under this section.

(b)(1) The board of trustees of a state retirement system may enter into a partial equity ownership agreement or substantially alter the terms of an existing partial equity ownership agreement if the board of trustees passes a resolution that:

(A) Determines an imminent need to immediately form or enter into the partial equity ownership agreement;

(B) Deems it financially appropriate to immediately form or enter into a partial equity ownership agreement; and

(C) Concludes that to forego the opportunity to promptly implement the board of trustees' investment directives under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619 would be inconsistent with the board of trustees' fiduciary duty of care to the retirants.

(2) The board of trustees of the state retirement system shall provide the office and the Legislative Council with a copy of the resolution under subsection (a) of this section within five (5) business days of the passage of the resolution.

(c) For a partial equity ownership agreement reviewed under this section, the retirement system shall submit information to the office and the Legislative Council within thirty (30) days of the passage of the resolution that discloses:

(1) The managing parties to the partial equity ownership agreement;

(2) The state retirement system's interest and ownership in the partial equity ownership agreement;

(3) The reason for the immediate formation or entry into a partial equity ownership agreement;

(4) Justification that the duration of the partial equity ownership agreement is necessary to serve the best interests of the retirants under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619;

(5) The anticipated date of implementation;

(6) The anticipated termination date of the partial equity ownership agreement; and

(7) Other information regarding the terms of the partial equity ownership agreement that the office or the Legislative Council may reasonably require for an adequate review.

(d) As may be reasonably required by the Legislative Council, a member of the board of trustees, the director of the respective state

retirement system, or the director's appointee shall appear at the next scheduled meeting of the Legislative Council after the receipt of the information under subsection (c) of this section to present the information and explain the details of the partial equity ownership agreement.

History. Acts 2009, No. 1211, § 2.

19-11-1304. Retrospective review of partial equity ownership agreement to ensure disclosure.

(a) Before April 7, 2009, if a state retirement system has entered into a partial equity ownership agreement that has not been submitted previously for review under § 19-11-101 et seq., the Arkansas Procurement Law, § 19-11-201 et seq., or § 19-11-801 et seq., then the partial equity ownership agreement shall be reviewed retrospectively under this section.

(b) The board of trustees of a state retirement system shall submit information that the Office of State Procurement or the Legislative Council may reasonably require to allow a retrospective review of a partial equity ownership agreement under this section.

History. Acts 2009, No. 1211, § 2.

CHAPTER 12

TOBACCO SETTLEMENT PROCEEDS ACT

SUBCHAPTER.

1. TOBACCO SETTLEMENT PROCEEDS ACT.
2. TOBACCO SETTLEMENT REVENUE BONDS ACT OF 2006.

A.C.R.C. Notes. References to “this chapter” in §§ 19-12-101 through 19-12-118 may not apply to § 19-12-119 which was enacted subsequently.

Acts 2016, No. 38, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and

current positions paid from the proceeds of the Tobacco Settlement by the Minority Health Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 123, § 9, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 125, § 5, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 127, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco

Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 134, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 191, § 8, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position

paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 224, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Effective Dates. Acts 2002 (1st Ex. Sess.), No. 2, § 12: June 12, 2002. Emergency clause provided: “It is found and determined by the General Assembly that the budgetary crisis facing this state may require large reductions in the state Medicaid program, which reductions will cut three federal matching dollars for each state dollar, resulting in a serious threat to the ability of the state Medicaid program to provide adequate care to the state’s neediest citizens. Setting aside funds for an Arkansas Rainy Day Fund by shifting the Prevention and Cessation Program Account to a current year budget will make moneys available to assist the state Medicaid program in maintaining its established levels of service in the event that the current revenue forecast is not collected. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2005, No. 1872, § 4: Apr. 8, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that clarification is needed to properly distribute moneys under the Master Settlement Agreement; that the distributions are for the benefit of the programs supported by tobacco settlement funds; and that the clarification is required immediately in order for the distributions for the current fiscal year to be correct. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

SUBCHAPTER 1 — TOBACCO SETTLEMENT PROCEEDS ACT

SECTION.

- 19-12-101. Title.
- 19-12-102. Definitions.
- 19-12-103. Grant of authority to State Board of Finance.
- 19-12-104. Creation and administration of Tobacco Settlement Cash Holding Fund.
- 19-12-105. Creation and administration of Tobacco Settlement Debt Service Fund.
- 19-12-106. Issuance of tobacco settlement revenue bonds by Arkansas Development Finance Authority.
- 19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.
- 19-12-108. Creation and administration of the Tobacco Settlement Program Fund.
- 19-12-109. Creation of Prevention and Cessation Program Account.
- 19-12-110. Creation of the Targeted State Needs Program Account.

SECTION.

- 19-12-111. Creation of Arkansas Biosciences Institute Program Account.
- 19-12-112. Creation of Medicaid Expansion Program Account.
- 19-12-113. Establishment and administration of prevention and cessation programs.
- 19-12-114. Establishment and administration of the Targeted State Needs Program.
- 19-12-115. Establishment and administration of the Arkansas Biosciences Institute.
- 19-12-116. Establishment and administration of Medicaid Expansion Program.
- 19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.
- 19-12-118. Monitoring and evaluation of programs.
- 19-12-119. Use of funds for the Medicaid Expansion Program Account.

A.C.R.C. Notes. Acts 2015, No. 269, § 8, provided: “LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.”

Acts 2016, No. 123, § 9, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 125, § 5, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco

Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 127, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 134, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institu-

tions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 191, § 8, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 224, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be con-

strued as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Publisher’s Notes. Due to the enactment of subchapter 2 by Acts 2006 (1st Ex. Sess.), No. 9, the existing provisions of this chapter have been redesignated as subchapter 1.

Effective Dates. Acts 2015, No. 894, § 2: July 1, 2015. Emergency clause pro-

vided: “It is found and determined by the General Assembly of the State of Arkansas that the Medicaid Expansion Program Account currently funds a program that provides increased healthcare access to Arkansans; that this increased healthcare access is necessary for the preservation of the public peace, health, and safety; that increased funding is essential to continuation of that program; and that without this increased funding, the program may be compromised. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 153: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Building Authority, the Arkansas Science and Technology Authority, the Department of Rural Services, and the Division of Land Surveys of the Arkansas Agriculture Department are inefficiently structured; that this inefficient structuring causes an excessive and unnecessary cost to the taxpayers of the this state; and that this act is essential to alleviating that financial burden. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

19-12-101. Title.

This chapter may be referred to and cited as the “Tobacco Settlement Proceeds Act”.

History. Init. Meas. 2000, No. 1, § 1.

19-12-102. Definitions.

(a) The following terms, as used in this chapter, shall have the meanings set forth in this section:

(1) “Act” shall mean this Arkansas Tobacco Settlement Funds Act of 2000.

(2) “ADFA” shall mean the Arkansas Development Finance Authority.

(3) “Arkansas Biosciences Institute” shall mean the Arkansas Biosciences Institute created by § 19-12-115.

(4) “Arkansas Biosciences Institute Program Account” shall mean the account by that name created pursuant to § 19-12-111 to be funded from the Tobacco Settlement Program Fund and used by the Arkansas Biosciences Institute for the purposes set forth in this chapter.

(5) “Arkansas Healthy Century Trust Fund” shall mean that public trust for the benefit of the citizens of the State of Arkansas created and established pursuant to § 19-12-107.

(6) “Arkansas Tobacco Settlement Commission” shall mean the entity that administers the programs established pursuant to this chapter, also known as “ATSC”, which is described and established in § 19-12-117.

(7) “Arkansas Tobacco Settlement Commission Fund” shall mean the fund by that name created pursuant to § 19-12-108(f) to be used by the Arkansas Tobacco Settlement Commission for the purposes set forth in § 19-12-117.

(8) “Bonds” shall mean any and all bonds, notes, or other evidences of indebtedness issued by ADFA as Tobacco Settlement Revenue Bonds pursuant to the terms of this chapter.

(9) “Capital Improvement Projects” shall mean the acquisition, construction and equipping of land, buildings, and appurtenant facilities, including but not limited to parking and landscaping, all intended for the provision of health care services, health education, or health-related research; provided that each such Capital Improvement Project must be either set forth in this chapter or subsequently designated by the General Assembly pursuant to legislation.

(10) “Debt Service Requirements” shall mean all amounts required to be paid in connection with the repayment of Bonds issued pursuant to this chapter, including, but not limited to, the principal of and interest on the Bonds, amounts reasonably required for a debt service reserve, amounts reasonably required to provide debt service coverage, trustee’s and paying agent fees, and, to the extent reasonably necessary, capitalized interest on the Bonds.

(11) “Initial MSA Disbursement” shall mean the first disbursement from the MSA Escrow to the State, consisting of Arkansas’ share of payments from Participating Manufacturers due under the Master Settlement Agreement and designated as the 1998 First Payment, the 2000 Initial Payment, and the 2000 Annual Payment, which amounts, along with any accumulated interest, represent all money due to the State and attributable to payments prior to January 1, 2001.

(12) “Master Settlement Agreement” or “MSA” shall mean that certain Master Settlement Agreement between certain states (the “Settling States”) and certain tobacco manufacturers (the “Participating Manufacturers”), pursuant to which the Participating Manufacturers have agreed to make certain payments to each of the Settling States.

(13) “Medicaid Expansion Program Account” shall mean the account by that name created pursuant to § 19-12-112 to be funded from the Tobacco Settlement Program Fund and used by the Arkansas Department of Human Services for the purposes set forth in this chapter.

(14) “MSA Disbursements” shall mean all amounts disbursed from the MSA Escrow pursuant to the Master Settlement Agreement to the State of Arkansas.

(15) “MSA Disbursement Date” shall mean any date on which MSA Disbursements are made to the State of Arkansas pursuant to the Master Settlement Agreement at the request of the State.

(16) “MSA Escrow” shall mean those escrow accounts established to hold the State of Arkansas’s share of the Tobacco Settlement proceeds prior to disbursement to the State pursuant to the Master Settlement Agreement.

(17) “MSA Escrow Agent” shall mean that agent appointed pursuant to the Escrow Agreement entered into between the Settling States and the Participating Manufacturers pursuant to the Master Settlement Agreement.

(18) “Participating Manufacturers” shall mean those entities defined as Participating Manufacturers by the terms of the Master Settlement Agreement.

(19) “Prevention and Cessation Program Account” shall mean the account by that name created pursuant to § 19-12-109 to be funded from the Tobacco Settlement Program Fund and used for the purposes set forth in this chapter.

(20) “Program Accounts” shall mean, collectively, the Prevention and Cessation Program Account, the Targeted State Needs Program Account, the Arkansas Biosciences Institute Program Account, and the Medicaid Expansion Program Account.

(21) “State Board of Finance” shall mean the entity created pursuant to § 19-3-101, as amended.

(22) “Targeted State Needs Programs Account” shall mean the account by that name created pursuant to § 19-12-110 to be funded from the Tobacco Settlement Program Fund and used for the purposes set forth in this chapter.

(23) “Tobacco Settlement” shall mean the State of Arkansas’s share of funds to be distributed pursuant to the Master Settlement Agreement between the Settling States and the Participating Manufacturers.

(24) “Tobacco Settlement Cash Holding Fund” shall mean the Fund established as a cash fund outside of the State Treasury pursuant to § 19-12-104, into which all MSA Disbursements shall be deposited on each MSA Disbursement Date.

(25) “Tobacco Settlement Debt Service Fund” shall mean the Fund established as a cash fund outside of the State Treasury pursuant to § 19-12-105.

(26) “Tobacco Settlement Program Fund” or “Program Fund” shall mean the Tobacco Settlement Program Fund established pursuant to § 19-12-108, which shall be used to hold and distribute funds to the various Program Accounts created by this chapter.

(27) “Trust indenture” or “indenture” shall mean any trust indenture, ADFA resolution, or other similar document under which Tobacco Settlement Revenue Bonds are to be issued and secured.

History. Init. Meas. 2000, No. 1, § 2.

19-12-103. Grant of authority to State Board of Finance.

The State Board of Finance is hereby authorized and directed to perform the following duties with respect to the Tobacco Settlement:

(a) The State Board of Finance is authorized and directed on behalf of the State of Arkansas to receive all authorized disbursements from the MSA Escrow. The Initial MSA Disbursement and each subsequent MSA Disbursement shall be immediately deposited into the Tobacco Settlement Cash Holding Fund, and distributed from there as prescribed in this chapter. The Office of the Attorney General is directed to take all action necessary to inform the MSA Escrow Agent that the State Board of Finance is authorized to receive such disbursements on behalf of the State.

(b) The State Board of Finance shall manage and invest all amounts held in the Tobacco Settlement Cash Holding Fund, the Tobacco Settlement Debt Service Fund, the Arkansas Healthy Century Trust Fund, the Tobacco Settlement Program Fund, the Arkansas Tobacco Settlement Commission Fund, and the Program Accounts, and shall have full power to invest and reinvest the moneys in such funds and accounts and to hold, purchase, sell, assign, transfer, or dispose of any of the investments so made as well as the proceeds of the investments and moneys, pursuant to the following standards:

(1) with respect to amounts in the Arkansas Healthy Century Trust Fund, all investments shall be pursuant to and in compliance with the prudent investor and other applicable standards set forth in §§ 24-3-408 [repealed], 24-3-414 [repealed], 24-3-415 [repealed], and 24-3-417 — 24-3-425 [repealed], and § 19-3-518;

(2) with respect to amounts in the Tobacco Settlement Debt Service Fund, all investments shall be pursuant to and in compliance with the prudent investor and other applicable standards set forth in §§ 24-3-408 [repealed], 24-3-414 [repealed], 24-3-415 [repealed], and 24-3-417 — 24-3-425 [repealed], and § 19-3-518; provided further that the types and manner of such investments may be further limited as set forth in § 19-12-105; and

(3) with respect to amounts held in the Tobacco Settlement Cash Holding Fund, the Tobacco Settlement Program Fund, each of the Program Accounts, and the Arkansas Tobacco Settlement Commission Fund, all investments shall of the type described in § 19-3-510 and shall be made with depositories designated pursuant to § 19-3-507; or such investment shall be in certificates of deposit, in securities as outlined in § 23-47-401 without limitation or as approved in the State Board of Finance investment policy. The State Board of Finance shall insure that such investments shall mature or be redeemable at the times needed for disbursements from such funds and accounts pursuant to this chapter.

(c) The State Board of Finance is authorized to employ such professionals as it deems necessary and desirable to assist it in properly

managing and investing the Arkansas Healthy Century Trust Fund, pursuant to the standards set forth in § 24-3-425 [repealed].

(d) The State Board of Finance is authorized to use investment earnings from the Arkansas Healthy Century Trust Fund to compensate the professionals retained under subsection (d), and to pay the reasonable costs and expenses of the State Board of Finance in administering the funds and accounts created under this chapter and performing all other duties ascribed to it hereunder.

(e) On the last day of each month, the State Board of Finance shall provide the Department of Finance and Administration, Office of Accounting with the current balances in the Tobacco Settlement Cash Holding Fund, the Arkansas Healthy Century Trust Fund, the Tobacco Settlement Program Fund, the Tobacco Settlement Debt Service Fund, the Arkansas Tobacco Settlement Commission Fund, and each Program Account.

(f) The State Board of Finance is authorized and directed to perform all other tasks that may be assigned to the State Board of Finance pursuant to this chapter.

History. Init. Meas. 2000, No. 1, § 3.

A.C.R.C. Notes. As adopted, subsection (c) is missing language essential to its meaning. The phrase “all investments shall of the type described in § 19-3-510 and shall be made with depositories designated pursuant to § 19-3-507;” was probably intended to read “all invest-

ments shall be of the type described in § 19-3-510 and shall be made with depositories designated pursuant to § 19-3-507;”.

As adopted, subsection (d) contains an incorrect internal reference. The intended reference appears to be to subsection (c) rather than to subsection (d).

19-12-104. Creation and administration of Tobacco Settlement Cash Holding Fund.

(a) There is hereby created and established a fund, held separate and apart from the State Treasury, to be known as the “Tobacco Settlement Cash Holding Fund”, which fund shall be administered by the State Board of Finance.

(b) All moneys received as part of the Tobacco Settlement are hereby designated cash funds pursuant to § 19-6-103, restricted in their use and to be used solely as provided in this chapter. All MSA Disbursements shall be initially deposited into the credit of the Tobacco Settlement Cash Holding Fund, when and as received. Any and all MSA Disbursements received prior to the effective date of this Act shall be immediately transferred to the Tobacco Settlement Cash Holding Fund upon this chapter becoming effective. The Tobacco Settlement Cash Holding Fund is intended as a cash fund, not subject to appropriation, and, to the extent practical, amounts in the Tobacco Settlement Cash Holding Fund shall be immediately distributed to the other Funds and Accounts described in this chapter.

(c) The Initial MSA Disbursement shall be distributed from the Tobacco Settlement Cash Holding Fund to the Arkansas Healthy Century Trust Fund as an initial endowment pursuant to § 19-12-107.

(d) After the Initial MSA Disbursement has been transferred as set forth in subsection (c) of this section, the State Board of Finance, beginning with MSA Disbursements for years 2001 and thereafter, shall receive all amounts due to the State from the MSA Escrow. In calendar year 2001, there shall first be deposited into the Arkansas Healthy Century Trust Fund from the MSA Disbursements attributable to calendar year 2001, the amount necessary to bring the principal amount of the Arkansas Healthy Century Trust Fund to one-hundred million dollars (\$100,000,000). The remainder of any MSA Disbursements attributable to calendar year 2001 shall be deposited into the Tobacco Settlement Program Fund and distributed pursuant to § 19-12-108. Beginning in 2002, and for each annual MSA Disbursement thereafter, all MSA Disbursements shall be immediately deposited into the Tobacco Settlement Cash Holding Fund and then distributed, as soon as practical after receipt, as follows:

(1) The first five million dollars (\$5,000,000) received as an MSA Disbursement in each calendar year beginning in 2002 shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Debt Service Fund; and

(2) After the transfer described in § 19-12-104(d)(1), the amounts remaining in the Tobacco Settlement Cash Holding Fund shall be transferred to the Tobacco Settlement Program Fund.

(e) While it is intended that the State Board of Finance will transfer funds from the Tobacco Settlement Cash Holding Fund immediately upon receipt, to the extent that any amounts must be held pending the transfers described in § 19-12-104(c) and (d), the State Board of Finance is authorized to invest such amounts in suitable investments maturing not later than when the moneys are expected to be transferred, provided that such investments are made in compliance with § 19-12-103(c).

History. Init. Meas. 2000, No. 1, § 4.

A.C.R.C. Notes. Acts 2013, No. 1496, § 20, provided: “FUND TRANSFER PROVISIONS — MEDICAID PROGRAM. Notwithstanding the provisions of Initiated Act 1 of 2000, or Arkansas Code 19-12-104 regarding the establishment and administration of the Tobacco Settlement Cash Holding Fund, or any other laws to the contrary, the entire amount of the settlement funds received, approximately twenty-two million seven hundred sixty-eight thousand one hundred twenty-six dollars (\$22,768,126), or so much as is

actually awarded and received by the state, through the settlement agreement in the nearly decade old dispute between Arkansas and the tobacco companies that signed the Master Settlement Agreement, shall be deposited into the Tobacco Settlement Cash Holding Fund and not distributed under the provisions of the Tobacco Settlement Proceeds Act, but instead such settlement funds shall be deposited directly into and credited to the Medicaid Expansion Program Account of the Tobacco Settlement Program Fund.”

19-12-105. Creation and administration of Tobacco Settlement Debt Service Fund.

(a) There is hereby created and established a fund, designated as a cash fund and held separate and apart from the State Treasury, to be

known as the "Tobacco Settlement Debt Service Fund", which Fund shall be administered by the State Board of Finance. All moneys deposited into the Tobacco Settlement Debt Service Fund are hereby designated cash funds pursuant to § 19-6-103, restricted in their use and to be used solely as provided in this chapter.

(b) There shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Debt Service Fund, the amount set forth for such transfer in § 19-12-104(d). All amounts received into the Tobacco Settlement Debt Service Fund shall be held until needed to make payments on Debt Service Requirements. The State Board of Finance is authorized to invest any amounts held in the Tobacco Settlement Debt Service Fund in suitable investments maturing not later than when the moneys are needed to pay Debt Service Requirements, provided that such investments comply with § 19-12-103(c), and further provided that the investment of such moneys may be further limited by the provisions of any trust indenture pursuant to which Bonds are issued or any related non-arbitrage certificate or tax regulatory agreement.

(c) Amounts held in the Tobacco Settlement Debt Service Fund shall be transferred to funds and accounts established and held by the trustee for the Bonds at such times and in such manner as may be specified in the trust indenture securing the Bonds. If so required by any trust indenture pursuant to which Bonds have been issued, amounts deposited into the Tobacco Settlement Debt Service Fund may be immediately deposited into funds or accounts established by such trust indenture and held by the trustee for the Bonds. The State Board of Finance is authorized to execute any consent, pledge, or other document, reasonably required pursuant to a trust indenture to affirm the pledge of amounts held in the Tobacco Settlement Debt Service Fund to secure Tobacco Settlement Revenue Bonds.

(d) On December 15 of each calendar year, any amounts held in the Tobacco Settlement Debt Service Fund, to the extent such amounts are not needed to pay Debt Service Requirements prior to the following April 15, shall be transferred to the Arkansas Healthy Century Trust Fund. At such time as there are no longer any Bonds outstanding, and all Debt Service Requirements and other contractual obligations have been paid in full, amounts remaining in the Tobacco Settlement Debt Service Fund shall be transferred to the Arkansas Healthy Century Trust Fund.

History. Init. Meas. 2000, No. 1, § 5.

19-12-106. Issuance of tobacco settlement revenue bonds by Arkansas Development Finance Authority.

(a) The Arkansas Development Finance Authority ("ADFA") is hereby directed and authorized to issue Tobacco Settlement Revenue Bonds, the proceeds of which are to be used for financing the Capital Improvement Projects described in § 19-12-106(b). The Bonds may be

issued in series from time to time, and shall be special obligations only of ADFA, secured solely by the revenue sources set forth in this section.

(b) The Capital Improvement Projects to be financed shall be:

(1) University of Arkansas for Medical Sciences, Biosciences Research Building; provided, however, that no more than two million, two hundred thousand dollars (\$2,200,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than twenty-five million dollars (\$25,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project;

(2) Arkansas State University Biosciences Research Building; provided, however, that no more than one million, eight hundred thousand dollars (\$1,800,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than twenty million dollars (\$20,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project;

(3) College of Public Health of the University of Arkansas for Medical Sciences; provided, however, that no more than one million dollars (\$1,000,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one year to pay Debt Service Requirements for this project, and provided further that no more than fifteen million dollars (\$15,000,000) in principal amount of Tobacco Settlement Revenue Bonds may be issued for this project; and

(4) Only such other capital improvement projects related to the provision of health care services, health education, or health-related research as designated by legislation enacted by the General Assembly; provided that the deposits to the Tobacco Settlement Debt Service Fund are adequate to pay Debt Service Requirements for such additional projects.

(c) Prior to issuance of any series of Bonds authorized herein, ADFA shall adopt a resolution authorizing the issuance of such series of Bonds. Each such resolution shall contain such terms, covenants, conditions, as deemed desirable and consistent with this chapter together with provisions of the Arkansas Development Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301 et seq., including without limitation, those pertaining to the establishment and maintenance of funds and accounts, deposit and investment of Bond proceeds and the rights and obligations of ADFA and the registered owners of the Bonds. In authorizing, issuing, selling the Bonds and in the investment of all funds held under the resolution or indenture securing such Bonds, ADFA shall have the powers and be governed by the provisions of §§ 15-5-309 and 15-5-310.

(d) The Bonds shall be special obligations of ADFA, secured and payable from deposits made into the Tobacco Settlement Debt Service Fund created pursuant to this chapter. In pledging revenues to secure the Bonds, the provisions of § 15-5-313 shall apply.

(e) If so determined by ADFA, the Bonds may additionally be secured by a lien on or security interest in facilities financed by the Bonds, by a lien or pledge of loans made by ADFA to the user of such facilities, and any collateral security received by ADFA, including, without limitation, ADFA's interest in and any revenue derived from any loan agreements. It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with such bond issue or the holders of the Bonds take possession of the loans, mortgages and collateral security.

(f) It shall be plainly stated on the face of each Bond that it has been issued under this chapter, and the Arkansas Development Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301 et seq., that the Bonds shall be obligations only of ADFA secured as specified herein and that, in no event, shall the bonds constitute an indebtedness of the State of Arkansas or an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged or an indebtedness secured by lien, or security interest in any property of the State.

(g) The Bonds may be issued in one or more series, as determined by ADFA. Additional Bonds may be issued in one or more series to fund additional Capital Improvement Projects subsequently designated pursuant to § 19-12-106(b)(4), so long as ADFA determines that revenues transferred to the Tobacco Settlement Debt Service Fund, in combination with other revenues available to secure the Bonds pursuant to § 19-12-106(e); will be sufficient to meet all Debt Service Requirements on such additional Bonds and any other Bonds then outstanding.

(h) Any funds remaining and available to ADFA or the trustees under any indenture or resolution authorized herein after the retirement of all Bonds outstanding under such indenture or resolution, and the satisfaction of all contractual obligations related thereto and all current expenses of ADFA related thereto, shall be transferred to the Arkansas Healthy Century Trust Fund.

(i) ADFA may issue Bonds for the purpose of refunding Bonds previously issued pursuant to this chapter, and in doing so shall be governed by the provisions of § 15-5-314.

(j) All Bonds issued under this chapter, and interest thereon, shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes. The Bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of municipal, county, bank, fiduciary, insurance company and trust funds.

(k) The State of Arkansas does hereby pledge to and agree with the holders of any Tobacco Settlement Revenue Bonds issued pursuant to this chapter that the State shall not (1) limit or alter the distribution of the Tobacco Settlement moneys to the Tobacco Settlement Debt Service Fund if such action would materially impair the rights of the holders of the Bonds, (2) amend or modify the Master Settlement Agreement in any way if such action would materially impair the rights of the holders of the Bonds, (3) limit or alter the rights vested in ADFA to fulfill the

terms of any agreements made with the holders of the Bonds, or (4) in any way impair the rights and remedies of the holders of the Bonds, unless and until all Bonds issued pursuant to this chapter, together with interest on the Bonds, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of the Bonds, have been paid, fully met, and discharged. ADFA is authorized to include this pledge and agreement in any agreement with the holders of the Bonds.

History. Init. Meas. 2000, No. 1, § 6.

19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.

(a) There is hereby created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, a trust fund, to be created as a public trust for the benefit of the State of Arkansas, to be known as the “Arkansas Healthy Century Trust Fund”, which Trust Fund shall be administered by the State Board of Finance. Such fund shall be restricted in its use and is to be used solely as provided in this chapter.

(b) The Arkansas Healthy Century Trust Fund shall be a perpetual trust, the beneficiary of which shall be the State of Arkansas and the programs of the State of Arkansas enumerated in this section. The State Board of Finance, as it may from time to time be comprised, is hereby appointed as trustee of the Arkansas Healthy Century Trust Fund. Such trust shall be revocable, and subject to amendment.

(c) The Arkansas Healthy Century Trust Fund shall be administered in accordance with the provisions of this section, which shall, for all purposes, be deemed to be the governing document of the public trust.

(d) The Arkansas Healthy Century Trust Fund shall be funded in an initial principal amount of one hundred million dollars (\$100,000,000) as provided in § 19-12-104. All earnings on investments of amounts in the Arkansas Healthy Century Trust Fund, to the extent not used for the purposes enumerated in subsection (e) of this section, shall be redeposited into the Arkansas Healthy Century Trust Fund, it being the intent of this chapter that the Arkansas Healthy Century Trust Fund shall grow in principal amount until needed for programs and purposes to benefit the State of Arkansas.

(e) The Arkansas Healthy Century Trust Fund shall be held in trust and used for the following purposes, and no other purposes:

(1) investment earnings on the Arkansas Healthy Century Trust Fund may be used for:

(A) the payment of expenses related to the responsibilities of the State Board of Finance as set forth in § 19-12-103; and

(B) such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly.

(2) the principal amounts in the Arkansas Healthy Century Trust Fund may only be used for such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly, it being the intent of this chapter that the principal amount of the Trust Fund should not be appropriated without amendment of this public trust.

(f) It is intended that the beneficiaries of the Arkansas Healthy Century Trust Fund be the State of Arkansas and its programs, and other projects related to health care services, health education, and health-related research, as such are now in existence or as such may be created in the future.

(g) The State Board of Finance, as trustee of the Arkansas Healthy Century Trust Fund, is authorized to invest all amounts held in the Arkansas Healthy Century Trust Fund in investments pursuant to and in compliance with § 19-12-103(c).

History. Init. Meas. 2000, No. 1, § 7.

19-12-108. Creation and administration of the Tobacco Settlement Program Fund.

(a) There is hereby created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Tobacco Settlement Program Fund", which fund shall be administered by the State Board of Finance. All moneys deposited into the Tobacco Settlement Program Fund are hereby restricted in their use and to be used solely as provided in this chapter. All expenditures and obligations that are payable from the Tobacco Settlement Program Fund and from each of the program accounts shall be subject to the same fiscal control, accounting, budgetary, and purchasing laws as are expenditures and obligations payable from other State Treasury funds, except as specified otherwise in this chapter. The Chief Fiscal Officer of the State may require additional controls, procedures, and reporting requirements that he or she determines are necessary to carry out the intent of this chapter.

(b) There shall be transferred from the Tobacco Settlement Cash Holding Fund to the Tobacco Settlement Program Fund the amounts set forth for such transfer as provided in § 19-12-104.

(c) Amounts deposited into the Tobacco Settlement Program Fund shall, prior to the distribution to the program accounts set forth in § 19-12-108(d)(1), be held and invested in investments pursuant to and in compliance with § 19-12-103(c); provided, that all such investments must mature or be redeemable without penalty on or prior to the next-succeeding June 30.

(d)(1) On each July 1, the amounts deposited into the Tobacco Settlement Program Fund, excluding investment earnings, shall be transferred to the various program accounts as follows:

(A) Fifteen and eight-tenths percent (15.8%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Targeted State Needs Program Account;

(B) Twenty-two and eight-tenths percent (22.8%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Arkansas Biosciences Institute Program Account; and

(C) Thirty-four and two-tenths percent (34.2%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Medicaid Expansion Program Account.

(2)(A) The Prevention and Cessation Program Account may receive loans from the Budget Stabilization Trust Fund in amounts determined by the Chief Fiscal Officer of the State that shall not exceed twenty-seven and two-tenths percent (27.2%) of the amounts estimated to be received in the Tobacco Settlement Program Fund during the current fiscal year. This estimate shall not include moneys returned to the Tobacco Settlement Program Fund under subdivision (e)(1) of this section.

(B) The loans shall be repaid from twenty-seven and two-tenths percent (27.2%) of amounts received in the Tobacco Settlement Program Fund during the fiscal year in which the loans are made. The loans shall be repaid before the end of the fiscal year. After the loans have been repaid, the Prevention and Cessation Program Account shall be transferred the difference between twenty-seven and two-tenths percent (27.2%) of amounts received in the Tobacco Settlement Program Fund during the fiscal year in which the loans are made and the amount of the loans.

(e)(1) All moneys distributed to the program accounts set forth in subdivision (d)(1) of this section and remaining at the end of each fiscal biennium shall be transferred to the Tobacco Settlement Program Fund by the board. The amounts will be held in the Tobacco Settlement Program Fund and then redeposited on July 1 as follows:

(A) Twenty-three and one-tenth percent (23.1%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Targeted State Needs Program Account;

(B) Thirty-three and three-tenths percent (33.3%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Arkansas Biosciences Institute Program Account; and

(C) Forty-three and six-tenths percent (43.6%) of amounts in the Tobacco Settlement Program Fund shall be transferred to the Medicaid Expansion Program Account.

(2) However, if the director of any agency receiving funds from the Tobacco Settlement Program Fund determines that there is a need to retain a portion of the amounts transferred under this section, the director may submit a request and written justification to the Chief Fiscal Officer of the State. Upon determination by the Chief Fiscal Officer of the State that sufficient justification exists, and after certification by the Arkansas Tobacco Settlement Commission that the program has met the criteria established in § 19-12-118, such amounts

requested shall remain in the account at the end of a biennium, there to be used for the purposes established by this chapter; provided, that the Chief Fiscal Officer of the State shall seek the review of the Legislative Council prior to approval of any such request.

(f) The board shall invest all moneys held in the Tobacco Settlement Program Fund and in each of the program accounts. All investment earnings on such funds and accounts shall be transferred on each July 1 to a fund hereby established and as a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State and designated as the Arkansas Tobacco Settlement Commission Fund. Such fund is to be a trust fund and administered by the board. All moneys deposited into the Arkansas Tobacco Settlement Commission Fund are hereby restricted in their use and to be used solely as provided in this chapter. Amounts held in the Arkansas Tobacco Settlement Commission Fund shall be used to pay the costs and expenses of the commission, including the monitoring and evaluation program established pursuant to § 19-12-118, and to provide grants as authorized in § 19-12-117.

History. Init. Meas. 2000, No. 1, § 8; Acts 2002 (1st Ex. Sess.), No. 2, §§ 2-4; 2005, No. 1872, §§ 1, 2; 2015, No. 894, § 1.

A.C.R.C. Notes. As originally enacted by Acts 2002 (1st Ex. Sess.), No. 2, § 3, subdivision (d)(2) began “Beginning July 1, 2002.”

The Arkansas Tobacco Settlement Commission Fund, created in subsection (f) of this section, is also codified as § 19-5-1117.

Amendments. The 2015 amendment substituted “Thirty-four and two-tenths

percent (34.2%)” for “Twenty-nine and eight-tenths percent (29.8%)” in (d)(1)(C); in (d)(2)(A), deleted “from time to time”, substituted “twenty-seven and two-tenths percent (27.2%)” for “thirty-one and six-tenths percent (31.6%)” in the first sentence, and substituted “under” for “pursuant to”; and, in (d)(2)(B), substituted “twenty-seven and two-tenths percent (27.2%)” for “thirty-one and six-tenths percent (31.6%)” in the first and last sentences, and substituted “before” for “prior to” in the second sentence.

19-12-109. Creation of Prevention and Cessation Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the “Prevention and Cessation Program Account”. The account shall be used by the Department of Health for such purposes and in such amounts as may be appropriated in law.

(b) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-113 or such other purposes as may be appropriated in law.

(c) Moneys remaining in the account at the end of each fiscal year shall be carried forward and used for the purposes provided by law.

History. Init. Meas. 2000, No. 1, § 9; Acts 2002 (1st Ex. Sess.), No. 2, § 5; 2005, No. 1872, § 3.

19-12-110. Creation of the Targeted State Needs Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the “Targeted State Needs Program Account”. Such account shall be used for such purposes and in such amounts as may be appropriated by law.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(A).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-114, or such other purposes as may be appropriated in law. Of the amounts deposited into the account, the following proportions shall be used to fund the programs established in § 19-12-114:

(1) College of Public Health of the University of Arkansas for Medical Sciences — thirty-three per cent (33%);

(2) Area Health Education Center located in Helena — twenty-two per cent (22%);

(3) Donald W. Reynolds Center on Aging — twenty-two per cent (22%); and

(4) Minority Health Initiative, administered by the Minority Health Commission — twenty-three per cent (23%).

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the Tobacco Settlement Program Fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 10; Acts 2002 (1st Ex. Sess.), No. 2, § 6.

A.C.R.C. Notes. The Area Health Education Center referred to in (c)(2) is a regional center operated by the University of Arkansas for Medical Sciences and is

known as UAMS East.

The reference in (c)(4) to the Minority Health Commission appears to be an intended reference to the Arkansas Minority Health Commission established under § 20-2-102.

19-12-111. Creation of Arkansas Biosciences Institute Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the Arkansas Biosciences Institute Program Account. Such account shall be used by the Arkansas Biosciences Institute and its members for such purposes and in such amounts as may be appropriated in law.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(B).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-115 or such other purposes as may be appropriated in law.

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 11; Acts 2002 (1st Ex. Sess.), No. 2, § 7.

A.C.R.C. Notes. Acts 2007, No. 1292, § 8, provided: "It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Acts 2015, No. 75, § 7, provided: "LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Acts 2015, No. 269, § 8, provided: "LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations con-

tained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Acts 2015, No. 323, § 11, provided: "LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Acts 2016, No. 123, § 9, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the informa-

tion contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 125, § 5, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 127, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds

of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 134, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 191, § 8, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall

be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

Acts 2016, No. 224, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to fi-

nance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

19-12-112. Creation of Medicaid Expansion Program Account.

(a) There is hereby created a trust fund on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, within the Tobacco Settlement Program Fund maintained by the State Board of Finance, an account to be known as the “Medicaid Expansion Program Account”. Such account shall be used by the Department of Human Services for such purposes and in such amounts as may be appropriated in law. These funds shall not be used to replace or supplant other funds available in the Department of Human Services Grants Fund Account. The funds appropriated for this program shall not be expended, except in conformity with federal and state laws, and then only after the department obtains the necessary approvals from the federal Centers for Medicare and Medicaid Services.

(b) On each July 1, there shall be transferred from the fund to the account the amount specified in § 19-12-108(d)(1)(C).

(c) All moneys deposited into the account except for investment earnings shall be used for the purposes set forth in § 19-12-116, or such other purposes as may be appropriated in law.

(d) Moneys remaining in the account at the end of the first fiscal year of a biennium shall be carried forward and used for the purposes provided by law. Such amounts that remain at the end of a biennium shall be transferred to the fund pursuant to § 19-12-108(e).

History. Init. Meas. 2000, No. 1, § 12; Acts 2002 (1st Ex. Sess.), No. 2, § 8.

19-12-113. Establishment and administration of prevention and cessation programs.

(a) It is the intent of this chapter that the Department of Health should establish the Tobacco Prevention and Cessation Program described in this section, and to administer such programs in accordance with law. The program described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(b) The Department of Health shall be responsible for developing, integrating, and monitoring tobacco prevention and cessation programs funded under this chapter and shall provide administrative oversight and management, including, but not limited to implementing performance based measures. The Department of Health shall have authority to award grants and allocate money appropriated to implement the tobacco prevention and cessation program mandated under this chapter. The Department of Health may contract with those entities necessary to fully implement the tobacco prevention and cessation initiatives mandated under this chapter. Within thirty (30) days of receipt of moneys into the Prevention and Cessation Program Account, fifteen percent (15%) of those moneys shall be deposited into a special account within the prevention and cessation account at the Department of Health to be expended for tobacco prevention and cessation in minority communities as directed by the Director of the Department of Health in consultation with the Chancellor of the University of Arkansas at Pine Bluff, the President of the Arkansas Medical, Dental, and Pharmaceutical Association, and the League of United Latin American Citizens.

(c) The Tobacco Prevention and Cessation Program shall be comprised of components approved by the State Board of Health. The program components selected by the board shall include:

- (1) community prevention programs that reduce youth tobacco use;
- (2) local school programs for education and prevention in grades kindergarten through twelve (K-12) that should include school nurses, where appropriate;
- (3) enforcement of youth tobacco control laws;
- (4) state-wide programs with youth involvement to increase local coalition activities;
- (5) tobacco cessation programs;
- (6) tobacco-related disease prevention programs;
- (7) a comprehensive public awareness and health promotion campaign;
- (8) grants and contracts funded pursuant to this chapter for monitoring and evaluation, as well as data gathering; and
- (9) other programs as deemed necessary by the board.

(d) There is hereby created an Advisory Committee to the State Board of Health, to be known as the "Tobacco Prevention and Cessation Advisory Committee". It shall be the duty and responsibility of the Committee to advise and assist the board in carrying out the provisions of this chapter. The Advisory Committee's authority shall be limited to an advisory function to the board. The Advisory Committee may, in consultation with the Department of Health, make recommendations to the board on the strategic plans for the prevention, cessation, and awareness elements of the comprehensive Tobacco Prevention and Cessation Program. The Advisory Committee may also make recommendations to the board on the strategic vision and guiding principles of the Tobacco Prevention and Cessation Program.

(e) The Advisory Committee shall be governed as follows:

(1) The Advisory Committee shall consist of eighteen (18) members; one (1) member to be appointed by the President Pro Tempore of the Senate, one (1) member to be appointed by the Speaker of the House of Representatives, and sixteen (16) members to be appointed by the Governor subject to confirmation by the Senate. The Governor shall consult each of the following designated groups before making an appointment, and shall consist of the following: one (1) member appointed to represent the Arkansas Medical Society; one (1) member shall represent the Arkansas Hospital Association; one (1) member shall represent the American Cancer Society; one (1) member shall represent the American Heart Association; one (1) member shall represent the American Lung Association; one (1) member shall represent the Coalition for a Tobacco-Free Arkansas; one (1) member shall represent Arkansans for Drug Free Youth; one (1) member shall represent the Department of Education; one (1) member shall represent the Arkansas Minority Health Commission; one (1) member shall represent the Arkansas Center for Health Improvement; one (1) member shall represent the Arkansas Association of Area Agencies on Aging; one (1) member shall represent the Arkansas Nurses Association; one (1) member shall represent the University of Arkansas Cooperative Extension Service; one (1) member shall represent the University of Arkansas at Pine Bluff; one (1) member shall represent the League of United Latin American Citizens; and one (1) member shall represent the Arkansas Medical, Dental, and Pharmaceutical Association. The Executive Committee of Arkansas Students Working Against Tobacco shall serve as youth advisors to this Advisory Committee. All members of this committee shall be residents of the State of Arkansas.

(2) The Advisory Committee will initially have four (4) members who will serve one (1) year terms; four (4) members who will serve two (2) year terms; five (5) members who will serve three (3) year terms; and five (5) members who will serve four (4) years. Members of the Advisory Committee shall draw lots to determine the length of the initial term. Subsequently appointed members shall be appointed for four (4) year terms and no member can serve more than two (2) consecutive full four (4) year terms. The terms shall commence on October 1st of each year.

(3) Members of the Advisory Committee shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program to the Department of Health.

(4) Members appointed to the Advisory Committee and the organizations they represent shall make full disclosure of the member's participation on the Committee when applying for any grant or contract funded by this chapter.

(5) All members appointed to the Advisory Committee shall make full and public disclosure of any past or present association to the tobacco industry.

(6) The Advisory Committee shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the Advisory Committee. The Advisory Committee shall adopt bylaws.

(7) The Advisory Committee shall meet at least quarterly, however, special meetings may be called at any time at the pleasure of the State Board of Health or pursuant to the bylaws adopted by the Advisory Committee.

(f) The board is authorized to review the recommendations of the Advisory Committee. The board shall adopt and promulgate rules, standards and guidelines as necessary to implement the program in consultation with the Department of Health.

(g) The Department of Health in implementing this Program shall establish such performance based accountability procedures and requirements as are consistent with law.

(h) Each of the programs adopted pursuant to this chapter shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 13; Acts 2015, No. 1100, § 45.

Amendments. The 2015 amendment, in (e)(1), added "subject to confirmation by the Senate" in the first sentence, and at the beginning of second sentence, substi-

tuted "The Governor shall consult" for "The Committee members appointed by the Governor shall be selected from a list of at least three (3) names submitted by" and "before making an appointment" for "to the Governor".

19-12-114. Establishment and administration of the Targeted State Needs Program.

(a) The University of Arkansas for Medical Sciences is hereby instructed to establish the Targeted State Needs Programs described in this section, and to administer such programs in accordance with law.

(b) The targeted state needs programs to be established are as follows:

(1) College of Public Health of the University of Arkansas for Medical Sciences;

(2) Area Health Education Center (located in Helena);

(3) Donald W. Reynolds Center on Aging; and

(4) Minority Health Initiative administered by the Minority Health Commission.

(c)(1) College of Public Health of the University of Arkansas for Medical Sciences. The College of Public Health of the University of Arkansas for Medical Sciences is hereby established as a part of the University of Arkansas for Medical Sciences for the purpose of conducting activities to improve the health and healthcare of the citizens of Arkansas. These activities should include, but not be limited to the following functions: faculty and course offerings in the core areas of public health including health policy and management, epidemiology, biostatistics, health economics, maternal and child health, environmental health, and health and services research; with courses offered both locally and statewide via a variety of distance learning mechanisms.

(2) It is intended that the College of Public Health of the University of Arkansas for Medical Sciences should serve as a resource for the General Assembly, the Governor, state agencies, and communities. Services provided by the College of Public Health of the University of Arkansas for Medical Sciences should include, but not be limited to the following: consultation and analysis, developing and disseminating programs, obtaining federal and philanthropic grants, conducting research, and other scholarly activities in support of improving the health and healthcare of the citizens of Arkansas.

(d) Area Health Education Center. The first Area Health Education Centers were founded in 1973 as the primary educational outreach effort of the University of Arkansas for Medical Sciences. It is the intent of this chapter that the University of Arkansas for Medical Sciences establish a new Area Health Education Center to serve the following counties: Crittenden, Phillips, Lee, St. Francis, Chicot, Monroe, and Desha. The new Area health Education Center shall be operated in the same fashion as other facilities in the University of Arkansas for Medical Sciences Area Health Education Center program including training students in the fields of medicine, nursing, pharmacy and various allied health professions, and offering medical residents specializing in family practice. The training shall emphasize primary care, covering general health education and basic medical care for the whole family. The program shall be headquartered in Helena with offices in Lake Village and West Memphis.

(e) Donald W. Reynolds Center on Aging. It is the intent of this chapter that the University of Arkansas for Medical Sciences establish, in connection with the Donald W. Reynolds Center on Aging and its existing Arkansas Health Education Centers program, healthcare programs around the state offering interdisciplinary educational programs to better equip local healthcare professionals in preventive care, early diagnosis and effective treatment for the elderly population throughout the state. The satellite centers will provide access to dependable healthcare, education, resource and support programs for the most rapidly growing segment of the State's population. Each center's program is to be defined by an assessment of local needs and priorities in consultation with local healthcare professionals.

(f) **Minority Health Initiative.** It is the intent of this chapter that the Arkansas Minority Health Commission establish and administer the Arkansas Minority Health Initiative for screening, monitoring, and treating hypertension, strokes, and other disorders disproportionately critical to minority groups in Arkansas. The program should be designed:

(1) to increase awareness of hypertension, strokes, and other disorders disproportionately critical to minorities by utilizing different approaches that include but are not limited to the following: advertisements, distribution of educational materials and providing medications for high risk minority populations;

(2) to provide screening or access to screening for hypertension, strokes, and other disorders disproportionately critical to minorities but will also provide this service to any citizen within the state regardless of racial/ethnic group;

(3) to develop intervention strategies to decrease hypertension, strokes and other disorders noted above, as well as associated complications, including: educational programs, modification of risk factors by smoking cessation programs, weight loss, promoting healthy lifestyles, and treatment of hypertension with cost-effective, well-tolerated medications, as well as case management for patients in these programs; and

(4) to develop and maintain a database that will include: biographical data, screening data, costs, and outcomes.

(g) The Arkansas Minority Health Commission will receive quarterly updates on the progress of these programs and make recommendations or changes as necessary.

(h) The programs described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(i) Each of the programs adopted pursuant to this section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 14.

A.C.R.C. Notes. Acts 2003, No. 856, § 1 provided: "The Arkansas School of Public Health, created by Arkansas Code § 19-12-114 as a part of the University of Arkansas for Medical Sciences, shall hereafter be known as the College of Public Health of the University of Arkansas for Medical Sciences."

The reference in (b)(4) to the Minority

Health Commission appears to be an intended reference to the Arkansas Minority Health Commission established under § 20-2-102.

The Area Health Education Center referred to in (d) is a regional center operated by the University of Arkansas for Medical Sciences and is known as UAMS East.

19-12-115. Establishment and administration of the Arkansas Biosciences Institute.

(a) It is the intent of this chapter to hereby establish the Arkansas Biosciences Institute for the educational and research purposes set forth hereinafter to encourage and foster the conduct of research through the University of Arkansas, Division of Agriculture of the University of Arkansas, the University of Arkansas for Medical Sciences, University of Arkansas at Fayetteville, Arkansas Children's Hospital and Arkansas State University. The Arkansas Biosciences Institute is part of a broad program to address health issues with specific emphasis on smoking and the use of tobacco products. The Arkansas Biosciences Institute is intended to develop more fully the interdisciplinary opportunities for research primarily in the areas set forth hereinafter.

(b) Purposes. The Arkansas Biosciences Institute is established for the following purposes:

- (1) to conduct agricultural research with medical implications;
- (2) to conduct bioengineering research focused on the expansion of genetic knowledge and new potential applications in the agricultural-medical fields;
- (3) to conduct tobacco-related research that focuses on the identification and applications of behavioral, diagnostic and therapeutic research addressing the high level of tobacco-related illnesses in the State of Arkansas;
- (4) to conduct nutritional and other research focusing on prevention or treatment of cancer, congenital or hereditary conditions or other related conditions; and
- (5) to conduct other research identified by the primary educational and research institutions involved in the Arkansas Biosciences Institute or as otherwise identified by the Arkansas Biosciences Institute Board of the Arkansas Biosciences Institute and which is reasonably related, or complementary to, research identified in subdivisions (b)(1)-(4) of this section.

(c)(1) Arkansas Biosciences Institute Board. There is hereby established the Arkansas Biosciences Institute Board which shall consist of the following: the President of the University of Arkansas; the President of Arkansas State University; the Chancellor of the University of Arkansas for Medical Sciences; the Chancellor of the University of Arkansas at Fayetteville; the Vice President for Agriculture of the University of Arkansas; the Executive Director of the Arkansas Economic Development Commission; the Director of the National Center for Toxicological Research; the President of Arkansas Children's Hospital; and two (2) individuals possessing recognized scientific, academic or business qualifications appointed by the Governor. The two (2) members of the Arkansas Biosciences Institute Board who are appointed by the Governor will serve four (4) year terms and are limited to serving two consecutive four (4) year terms. The terms shall

commence on October 1 of each year. These members appointed by the Governor are not entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program. The Arkansas Biosciences Institute Board shall establish and appoint the members of an Industry Advisory Committee and a Science Advisory Committee composed of knowledgeable persons in the fields of industry and science. These Committees shall serve as resources for the Arkansas Biosciences Institute Board in their respective areas and will provide an avenue of communication to the Arkansas Biosciences Institute Board on areas of potential research.

(2) The Arkansas Biosciences Institute Board shall establish rules for governance for Board affairs and shall:

(A) provide overall coordination of the program;

(B) develop procedures for recruitment and supervision of member institution research review panels, the membership of which shall vary depending on the subject matter of proposals and review requirements, and may, in order to avoid conflicts of interest and to ensure access to qualified reviews, recommend reviewers not only from Arkansas but also from outside the state;

(C) provide for systematic dissemination of research results to the public and the health care community, including work to produce public service advertising on screening and research results, and provide for mechanisms to disseminate the most current research findings in the areas of cause and prevention, cure diagnosis and treatment of tobacco related illnesses, in order that these findings may be applied to the planning, implementation and evaluation of any other research programs of this state;

(D) develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other applications wherever appropriate and consistent with state and federal law; and

(E) transmit on or before the end of each calendar year on an annual basis, a report to the General Assembly and the Governor on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, all of the following information:

(i) the number and dollar amounts of internal and external research grants, including the amount allocated to negotiated indirect costs;

(ii) the subject of research grants;

(iii) the relationship between federal and state funding for research;

(iv) the relationship between each project and the overall strategy of the research program;

(v) a summary of research findings, including discussion of promising new areas; and

(vi) the corporations, institutions, and campuses receiving grant awards.

(d) Director. The director of the Arkansas Biosciences Institute shall be appointed by the President of the University of Arkansas, in consultation with the President of Arkansas State University, and the President of Arkansas Children's Hospital, and based upon the advice and recommendation of the Arkansas Biosciences Institute Board. The Director shall be an employee of the University of Arkansas and shall serve at the pleasure of the President of the University of Arkansas. The Director shall be responsible for recommending policies and procedures to the Arkansas Biosciences Institute Board for its internal operation and shall establish and ensure methods of communication among the units and divisions of the University of Arkansas, Arkansas Children's Hospital and Arkansas State University and their faculty and employees engaged in research under the auspices of the Arkansas Biosciences Institute. The Director shall undertake such administrative duties as may be necessary to facilitate conduct of research under the auspices of the Arkansas Biosciences Institute. The Director shall perform such other duties as are established by the President of the University of Arkansas in consultation with the President of Arkansas State University, the President of Arkansas Children's Hospital and with the input of the Arkansas Biosciences Institute Board.

(e) Conduct of Research. Research performed under the auspices of the Arkansas Biosciences Institute shall be conducted in accordance with the policies of the University of Arkansas, Arkansas Children's Hospital, and Arkansas State University, as applicable. The Arkansas Biosciences Institute Board and the Director shall facilitate the establishment of centers to focus on research in agri-medicine, environmental biotechnology, medical genetics, bio-engineering and industry development. Such centers shall be established in accordance with procedures adopted by the Arkansas Biosciences Institute Board, and shall provide for interdisciplinary collaborative efforts with a specific research and educational objectives.

(f) In determining research projects and areas to be supported from such appropriated funds, each of the respective institutions shall assure that adequate opportunities are given to faculty and other researchers to submit proposals for projects to be supported in whole or in part from such funds. At least annually the Arkansas Biosciences Institute Board shall review research being conducted under the auspices of the Arkansas Biosciences Institute and may make recommendations to the President of the University of Arkansas and the President of Arkansas State University and President of Arkansas Children's Hospital of ways in which such research funds may be more efficiently employed or of collaborative efforts which would maximize the utilization of available funds.

(g) The programs described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(h) Each of the programs adopted pursuant to this Section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 15; Acts 2015 (1st Ex. Sess.), No. 7, § 112; 2015 (1st Ex. Sess.), No. 8, § 112.

A.C.R.C. Notes. Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 62, provided: "Transfer of the Arkansas Science and Technology Authority.

"(a)(1) The Arkansas Science and Technology Authority is transferred to the Arkansas Economic Development Commission by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the commission is the principal department under Acts 1971, No. 38.

"(b) The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing, of the authority are transferred to the commission, except as speci-

fied in this act.

"(c) The prescribed powers, duties, and functions, including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudication of the authority are transferred to the executive director of the commission, except as specified in this act.

"(d) The members of the Board of Directors of the Arkansas Science and Technology Authority, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board except as specified in this act."

Amendments. The 2015 amendment by Acts 2015 (1st Ex. Sess.), Nos. 7 and 8 substituted "Executive Director of the Arkansas Economic Development Commission" for "Director of the Arkansas Science and Technology Authority" in (c)(1).

19-12-116. Establishment and administration of Medicaid Expansion Program.

(a) It is the intent of this chapter that the Department of Human Services should establish the Medicaid expansion program described in this section, and to administer such program in accordance with law.

(b) The Medicaid expansion program shall be a separate and distinct component of the state Medicaid program currently administered by the Department of Human Services and shall be established as follows:

- (1) expanding Medicaid coverage and benefits to pregnant women;
- (2) expanding inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64);
- (3) expanding non-institutional coverage and benefits to adults aged 65 and over; and

(4) creating and providing a limited benefit package to adults aged nineteen (19) to sixty-four (64). All such expenditures shall be made in conformity with the state Medicaid program as amended and approved by the Centers for Medicare and Medicaid Services.

(c) The programs defined in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance-based measures for accountability which will measure specific health related results.

(d) Each of the programs adopted pursuant to this Section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

History. Init. Meas. 2000, No. 1, § 16.

A.C.R.C. Notes. Acts 2016, No. 191, § 6, provided: "MEDICAID EXPANSION PROGRAM — PAYING ACCOUNTS. The Medicaid Expansion Program as established by Initiated Act 1 of 2000 shall be a separate and distinct component embracing (1) expanded Medicaid coverage and benefits to pregnant women; (2) expanded inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64); (3) expanded non-institutional coverage and benefits to adults aged 65 and over; and (4) creation and provision of a limited benefit package to adults aged nineteen

(19) to sixty-four (64), to be administered by the Department of Human Services. Separate Paying Accounts shall be established for the Medicaid Expansion Program as designated by the Chief Fiscal Officer of the State, to be used exclusively for the purpose of drawing down federal funds associated with the federal share of expenditures and for the state share of expenditures transferred from the Medicaid Expansion Program Account or for any other appropriate state match funds.

"The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017."

19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.

(a) There is hereby created and recognized the Arkansas Tobacco Settlement Commission, which shall be composed of the following:

(1) The Executive Director of the Arkansas Economic Development Commission or his or her designee;

(2) The Director of the Department of Education or his or her designee;

(3) The Director of the Department of Higher Education or his or her designee;

(4) The Director of the Department of Human Services or his or her designee;

(5) The Director of the Department of Health or his or her designee;

(6) A healthcare professional to be selected by the President Pro Tempore of the Senate;

(7) A healthcare professional to be selected by the Speaker of the House of Representatives;

(8) A citizen selected by the Governor; and

(9) A citizen selected by the Attorney General.

(b)(1) The four (4) members of the commission who are not on the commission by virtue of being a director of an agency, will serve four-year terms. The terms shall commence on October 1 of each year. Commission members are limited to serving two (2) consecutive four-year terms.

(2) Members of the commission shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program.

(c) Members appointed to the commission and the organizations they represent shall make full disclosure of the members' participation on

the commission when applying for any grant or contract funded by this chapter.

(d) All members appointed to the commission shall make full and public disclosure of any past or present association to the tobacco industry.

(e) The commission shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the commission. The commission is authorized to adopt bylaws.

(f) The commission shall meet at least quarterly. However, special meetings of the commission may be called at any time at the pleasure of the chair or pursuant to the bylaws of the commission.

(g) The commission is authorized to hire an independent third party with appropriate experience in health, preventive resources, health statistics, and evaluation expertise to perform monitoring and evaluation of program expenditures made from the program accounts pursuant to this chapter. Such monitoring and evaluation shall be performed in accordance with § 19-12-118, and the third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the commission as to the continued funding for each program.

(h) The commission is authorized to hire such staff as it may reasonably need to carry out the duties described in this chapter. The costs and expenses of the monitoring and evaluation program, as well as the salaries, costs, and expenses of staff shall be paid from the Arkansas Tobacco Settlement Commission Fund established pursuant to § 19-12-108.

(i) If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

(1) Those organizations eligible to receive grants are nonprofit and community based;

(2) Grant criteria shall be established based upon the following principles:

(A) All funds should be used to improve and optimize the health of Arkansans;

(B) Funds should be spent on long-term projects that improve the health of Arkansans;

(C) Future tobacco-related illness and health care costs in Arkansas should be minimized through this opportunity; and

(D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and

(3) Grant awards shall be restricted in amounts up to fifty-thousand dollars (\$50,000) per year for each eligible organization.

History. Init. Meas. 2000, No. 1, § 17; Acts 2015 (1st Ex. Sess.), No. 7, § 113; 2015 (1st Ex. Sess.), No. 8, § 113.

A.C.R.C. Notes. Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 62, provided: "Transfer of the Arkansas Science and Technology Authority.

"(a)(1) The Arkansas Science and Technology Authority is transferred to the Arkansas Economic Development Commission by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the commission is the principal department under Acts 1971, No. 38.

"(b) The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing, of the authority are transferred to the commission, except as specified in this act.

"(c) The prescribed powers, duties, and functions, including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudication of the authority are transferred to the executive director of the commission, except as specified in this act.

"(d) The members of the Board of Directors of the Arkansas Science and Technology Authority, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board except as

specified in this act."

Acts 2016, No. 224, § 3, provided: "INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

"The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017."

Publisher's Notes. The position of Director of the Department of Education, referred to in this section, was renamed the Commissioner of Education by Acts 2005, No. 1672. See § 6-11-102.

Amendments. The 2015 amendment by Acts 2015 (1st Ex. Sess.), Nos. 7 and 8 substituted "Executive Director of the Arkansas Economic Development Commission" for "Director of the Arkansas Science and Technology Authority" in (a)(1).

19-12-118. Monitoring and evaluation of programs.

(a) The Arkansas Tobacco Settlement Commission is directed to conduct monitoring and evaluation of the programs established in §§ 19-12-113 — 19-12-116 to ensure optimal impact on improving the health of Arkansans and fiscal stewardship of the Tobacco Settlement. The commission shall develop performance indicators to monitor programmatic functions that are state-specific and situation-specific and to support performance-based assessment for governmental accountability. The performance indicators shall reflect short-term and long-term goals and objectives of each program, be measurable, and provide guidance for internal programmatic improvement and legislative funding decisions. The commission is expected to modify these performance indicators as goals and objectives are met and new inputs to programmatic outcomes are identified.

(b) All programs funded by the tobacco settlement and established in §§ 19-12-113 — 19-12-116 shall be monitored and evaluated to justify

continued support based upon the state's performance-based budgeting initiative. These programs shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined programs, program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance-based measures for accountability that will measure specific health-related results. All expenditures that are payable from the Tobacco Settlement Program Fund and from each of the program accounts, therein, shall be subject to the same fiscal control, accounting, budgetary, and purchasing laws as are expenditures and obligations payable from State Treasury funds, except as specified otherwise in this chapter. The Chief Fiscal Officer of the State may require additional controls, procedures, and reporting requirements that he or she determines are necessary in order to carry out the intent of this chapter.

(c) The commission is directed to establish program goals in accordance with the following initiation, short-term and long-term performance indicators for each program to be funded by the tobacco settlement, which performance indicators shall be subject to modification by the commission based on specific situations and subsequent developments. Progress with respect to these performance indicators shall be reported to the Governor and the General Assembly for future appropriation decisions:

(1) Tobacco prevention and cessation: The goal is to reduce the initiation of tobacco use and the resulting negative health and economic impact. The following are anticipated objectives in reaching this overall goal:

(A) Initiation: The Department of Health is to start the program within six (6) months of available appropriation and funding;

(B) Short-term: Communities shall establish local tobacco prevention initiatives;

(C) Long-term: Surveys demonstrate a reduction in numbers of Arkansans who smoke and/or use tobacco.

(2) Medicaid Expansion: The goal is to expand access to healthcare through targeted Medicaid expansions, thereby improving the health of eligible Arkansans:

(A) Initiation: The Department of Human Services is to start the program initiatives within six (6) months of available appropriation and funding;

(B) Short-term: The Department of Human Services demonstrates an increase in the number of new Medicaid eligible persons participating in the expanded programs.

(C) Long-term: Demonstrate improved health and reduced long-term health costs of Medicaid eligible persons participating in the expanded programs;

(3) Research and health education: The goal is to develop new tobacco-related medical and agricultural research initiatives to improve the access to new technologies, improve the health of Arkansans, and stabilize the economic security of Arkansas:

(A) Initiation: The Arkansas Biosciences Institute Board shall begin operation of the Arkansas Biosciences Institute within twelve (12) months of available appropriation and funding;

(B) Short-term: The Arkansas Biosciences Institute shall initiate new research programs for the purpose of conducting, as specified in § 19-12-115, agricultural research with medical implications, bioengineering research, tobacco-related research, nutritional research focusing on cancer prevention or treatment, and other research approved by the Arkansas Biosciences Institute Board;

(C) Long-term: The institute's research results should translate into commercial, alternate technological, and other applications wherever appropriate in order that the research results may be applied to the planning, implementation and evaluation of any health related programs in the state. The Arkansas Biosciences Institute is also to obtain federal and philanthropic grant funding;

(4) Targeted state needs programs: The goal is to improve the healthcare systems in Arkansas and the access to healthcare delivery systems, thereby resolving critical deficiencies that negatively impact the health of the citizens of the state:

(A) College of Public Health of the University of Arkansas for Medical Sciences:

(i) Initiation: Increase the number of communities in which participants receive public health training;

(ii) Short-Term: Obtain federal and philanthropic grant funding;

(iii) Long-term: Elevate the overall ranking of the health status of Arkansas;

(B) Minority health initiative:

(i) Initiation: Start the program within twelve (12) months of available appropriation and funding;

(ii) Short-term: Prioritize the list of health problems and planned intervention for minority population and increase the number of Arkansans screened and treated for tobacco-related illnesses;

(iii) Long-term: Reduce death/disability due to tobacco-related illnesses of Arkansans;

(C) Donald W. Reynolds Center on Aging:

(i) Initiation: Start the program within twelve (12) months of available appropriation and funding;

(ii) Short-term: Prioritize the list of health problems and planned intervention for elderly Arkansans and increase the number of Arkansans participating in health improvement programs;

(iii) Long-term: Improve health status and decrease death rates of elderly Arkansans, as well as obtaining federal and philanthropic grant funding; and

(D) Area Health Education Center:

(i) Initiation: Start the new area health education center in Helena with DHEC offices in West Memphis and Lake Village within twelve (12) months of available appropriation and funding;

(ii) Short-term: Increase the number of communities and clients served through the expanded AHEC/DHEC offices;

(iii) Long-term: Increase the access to a primary care provider in underserved communities.

History. Init. Meas. 2000, No. 1, § 18.

A.C.R.C. Notes. Acts 2016, No. 224, § 3, provided: “INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation

expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

“The provisions of this section shall be in effect only from July 1, 2016 through June 30, 2017.”

19-12-119. Use of funds for the Medicaid Expansion Program Account.

- (a) In addition to the purposes enumerated in § 19-12-116 for the Medicaid expansion program, the funds made available to the Medicaid Expansion Program Account may also be used to supplement current general revenues as approved by the Governor and the Chief Fiscal Officer of the State for the Arkansas Medicaid Program.

(b) None of the funds shall be used for this additional purpose if the usage will reduce the funds made available by the General Assembly for the Meals-on-Wheels program and the senior prescription drug program.

History. Acts 2002 (1st Ex. Sess.), No. 2, § 11.

A.C.R.C. Notes. References to “this

chapter” in §§ 19-12-101 — 19-12-118 may not apply to this section, which was enacted subsequently.

SUBCHAPTER 2 — TOBACCO SETTLEMENT REVENUE BONDS ACT OF 2006

SECTION.	SECTION.
19-12-201. Title.	19-12-205. Additional Tobacco Settlement Revenue Bonds authorized.
19-12-202. Legislative findings, intent, and purpose.	19-12-206. Issuance of additional Tobacco Settlement Revenue Bonds by Arkansas Development Finance Authority.
19-12-203. Applicability of Tobacco Settlement Proceeds Act.	
19-12-204. Arkansas Cancer Research Center designated as capital improvement project.	

Effective Dates. Acts 2006 (1st Ex. Sess.), No. 9, § 2: Apr. 7, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that cancer is one of the leading health problems and causes of

death in the state; there is an immediate need for additional facilities to support research in the cause, prevention, and treatment of various types of cancer; that this act provides financial resources critical to the development and construction of

necessary medical facilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-12-201. Title.

This subchapter shall be known and may be cited as the "Tobacco Settlement Revenue Bonds Act of 2006".

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-202. Legislative findings, intent, and purpose.

(a) The General Assembly finds that:

(1) Cancer is one of the leading health problems and causes of death in the state;

(2) There is an immediate need for additional facilities to support research in the cause, treatment, and prevention of various types of cancer;

(3) Because the Arkansas Cancer Research Center of the University of Arkansas for Medical Sciences is engaged in education, research, and clinical care addressing the causes, treatment, and prevention of cancer, the General Assembly has recognized the center as the official cancer institute of the State of Arkansas since its inception in 1984;

(4) It is appropriate that the center should be designated as a capital improvement project relating to healthcare services, health education, or health-related research under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.; and

(5) This subchapter provides financial resources critical to the development and construction of necessary medical facilities by authorizing the issuance of an additional series of Tobacco Settlement Revenue Bonds in support of the center.

(b) This subchapter is not intended to amend nor does it amend Initiated Act 1 of 2000, the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.

(c) The purpose of this subchapter is to designate an additional capital improvement project as anticipated by § 19-12-106(b)(4) and to enact implementation legislation necessary to authorize an additional series of Tobacco Settlement Revenue Bonds to finance a portion of the additional capital improvement project as provided under § 19-12-106(g).

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-203. Applicability of Tobacco Settlement Proceeds Act.

The Tobacco Settlement Proceeds Act, § 19-12-101 et seq., is fully applicable to this subchapter and any Tobacco Settlement Revenue Bonds issued under this subchapter.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-204. Arkansas Cancer Research Center designated as capital improvement project.

As authorized by § 19-12-106(b)(4), the Arkansas Cancer Research Center of the University of Arkansas for Medical Sciences is designated as a capital improvement project relating to healthcare services, health education, or health-related research.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-205. Additional Tobacco Settlement Revenue Bonds authorized.

Additional Tobacco Settlement Revenue Bonds may be issued in connection with the capital improvement project described in § 19-12-204 under the following conditions:

(1) No more than five million dollars (\$5,000,000) of the annual transfer to the Tobacco Settlement Debt Service Fund shall be allocated in any one (1) year to pay debt service requirements for the capital improvement project;

(2) Annual transfers to the Tobacco Settlement Debt Service Fund allocated to the capital improvement project shall not commence until the Tobacco Settlement Revenue Bonds issued in 2001 under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq., are no longer outstanding; and

(3) No more than forty million dollars (\$40,000,000) in an initial principal amount of Tobacco Settlement Revenue Bonds may be issued for the capital improvement project.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

19-12-206. Issuance of additional Tobacco Settlement Revenue Bonds by Arkansas Development Finance Authority.

(a) If revenues in the Tobacco Settlement Debt Service Fund are sufficient to meet Debt Services Requirements with regard to additional Tobacco Settlement Revenue Bonds that may be issued in connection with the capital improvement project described in § 19-12-204, then the Arkansas Development Finance Authority shall issue additional Tobacco Settlement Revenue Bonds in accordance with the limitations

established in § 19-12-205 to be used for financing a portion of the capital improvement project described in § 19-12-204.

(b) The additional Tobacco Settlement Revenue Bonds shall be issued as set forth under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq., and shall be entitled to the same rights and protections as the Tobacco Settlement Revenue Bonds issued in 2001 under the Tobacco Settlement Proceeds Act, § 19-12-101 et seq.

History. Acts 2006 (1st Ex. Sess.), No. 9, § 1.

APPENDIX — TITLE 19

BOND ISSUES

The following laws relate to bond issues which had not matured at the time of publication of this code. While they are not laws of a general and permanent nature, and consequently are not codifiable, they are included in this appendix for easy reference.

1. Arkansas Revenue Department Building Act — Acts 1961 (1st Ex. Sess.), No. 38, as amended by Acts 1997, No. 250.
2. Arkansas State Department of Health Building Act — Acts 1965, No. 469.
3. War Memorial Stadium, Additional Bonds — Acts 1970 (1st Ex. Sess.), No. 9.
4. Arkansas Department of Public Safety Building Act — Acts 1977, No. 490 as amended by Acts 1979, No. 1086, §§ 2-5; 1980 (1st Ex. Sess.), No. 7.
5. Arkansas State Education Building Expansion Act — Acts 1977, No. 554.
6. Arkansas State Department of Health Building Expansion Act — Acts 1977, No. 686, as amended by Acts 1997, No. 250.
7. Arkansas Revenue Department Building Expansion Acts — Acts 1977, No. 749, as amended by Acts 1997, No. 250.
8. Regulatory Agencies Building — Acts 1977, No. 820.
9. Regulatory Agencies Building — Acts 1979, No. 1102.
10. Oil and Gas Commission Building — Acts 1985, No. 270.
11. War Memorial Stadium, Remission of Trust Funds — Acts 1985, No. 393.
12. Capitol Mall Facility and State Agencies Facilities Acquisition Act of 1991 — Acts 1991, No. 235, as amended by Acts 1991, No. 923.
13. Department of Health Building Expansion Act of 1991 — Acts 1991, No. 1162.
14. 1995 New Revenue Division Building Act — Acts 1995, No. 725, as amended by Acts 1997, No. 250.
15. Highway Construction and Improvement Bonds — Acts 1995, No. 1007.
16. Arkansas Water, Waste Disposal and Pollution Abatement Facilities Financing Act of 1997 — Acts 1997, No. 607.
17. Department of Arkansas State Police Headquarters Facility and Wireless Data Equipment Financing Act — Acts 1997, No. 1057.
18. The Steel Mill Project — Acts 2013, No. 1084, §§ 1-8.
19. The Steel Mill Project — Acts 2013, No. 1476, §§ 1-8.
20. Amend. 91. [General Obligation Four-Lane Highway Construction and Improvement Bonds]
21. GVAB Facilities Project — Acts 2015 (1st Ex. Sess.), Nos. 9 and 10.

1. ARKANSAS REVENUE DEPARTMENT BUILDING ACT — ACTS 1961 (1ST EX. SESS.), NO. 38, AS AMENDED BY ACTS 1997, NO. 250.

SECTION 1. This Act shall be referred to and may be cited as the “Arkansas Revenue Department Building Act.”

SECTION 2. There is hereby created and established a Commission to be known as the Arkansas Revenue Department Building Commission, hereinafter referred to as the "Commission".

SECTION 3. The Commission shall consist of five (5) members. The Commissioner of Revenues and the Secretary of State shall be, ex-officio, members, and Chairman and Secretary, respectively, of the Commission. Three (3) members of the Commission shall be appointed by the Governor from resident electors of this State.

SECTION 4. Members of the Commission shall receive no pay for their services, but may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

SECTION 5. The terms of office of the original members of the Commission so appointed by the Governor shall commence upon qualification after appointment and shall be arranged by the Governor in such manner that the term of one of such members shall expire on the 14th day of January of each year, beginning with January 14, 1963. For each member appointed by the Governor for a regular term subsequent to the expiration of the term of the original member, the term of office shall commence on the 15th day of January following such expiration date and shall end on the 14th day of January of the third year following the year in which such regular term commenced. Any vacancies arising in the membership of the Commission so appointed by the Governor for any reason other than the expiration of the regular terms for which such members were appointed, shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

SECTION 6. The Commission is hereby authorized to:

(a) Arrange for a suitable site for the Revenue Department Building, on the State Capitol Grounds in Little Rock, Pulaski County, Arkansas; thereafter, on such site, construct and equip such building; and obtain the necessary funds for the construction and equipping thereof by the issuance of Revenue Bonds as hereinafter in this Act specified.

(b) Arrange for the housing therein of the State Revenue Department and such other State agency or agencies as space and facilities may permit from time to time and with reference to other agencies, if any, to rent, lease, or otherwise make space available upon such terms and conditions and for such rentals, if any, as the Commission may determine;

(c) Purchase, lease or rent any corporeal or personal property.

(d) Receive bequests or donations of any real, corporeal or personal property.

(e) Sell, barter, lease or rent any real, corporeal or personal property, or convert into money any such property which cannot be used in the form received.

(f) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Take such other action, not inconsistent with law, as may be

necessary or desirable to carry out the authority in this Act conferred and to carry out the intent and purposes of this Act.

SECTION 7. Meetings of the Commission shall be held on call by the Chairman or by any three or more members on advance notice to each member, at such place or places as may suit the Commission's convenience. All meetings of the Commission shall be open to the public, and records of the proceedings thereof shall be kept. A quorum for the transaction of business at any meeting shall consist of not less than three (3) members, and the affirmative vote of three (3) members shall be requisite for the authorizing or approval of any action or the passage or adoption of any motion or resolution.

SECTION 8. The Chairman of the Commission shall be custodian of all property held in the name of the Commission and shall be its disbursing agent and executive officer. The Commission may, by resolution duly adopted, delegate to the Chairman any of the powers or functions vested in or imposed upon it by this Act, and until such a resolution shall subsequently have been modified or rescinded, such delegated powers and functions may be exercised by the Chairman in the name of the Commission. The Chairman shall furnish bond to the State, with a corporate surety thereon, in the penal sum of Twenty-five Thousand Dollars (\$25,000), conditioned that he will faithfully perform his powers, functions and duties and properly handle all funds received and disbursed by him and account therefor. An additional disbursing agent's bond shall not be required of the Chairman, and the bond so furnished shall be filed in the office of the Auditor of State. The premium on the bond shall be a proper charge against funds of the Commission.

SECTION 9. The Revenue Department Building after its completion shall house the State Revenue Department, and shall contain facilities for the proper conduct of the business of said Department. In addition, the Revenue Department Building may house such other agency or agencies as space and facilities will permit from time to time.

SECTION 10. All monies received from collections of the charge of \$1.00 for each original and each duplicate certificate of title to a motor vehicle, as provided in Section 83 of Act 142 of the Acts of the General Assembly of the State of Arkansas for the year 1949, approved February 23, 1949, and Section 1 of Act 436 of the Acts of the General Assembly of the State of Arkansas for the year 1961, approved March 15, 1961, are hereby specifically declared to be cash funds. Said monies shall not be deposited in the State Treasury, but as soon as practicable after receipt shall be deposited in the "Revenue Department Building Fund", hereafter in this Act created. So long as any Revenue Bonds issued under this Act shall be outstanding, until the entire principal and interest on said outstanding bonds shall be paid or adequate provision made for the payment thereof, said charge shall be collected and the monies received therefrom shall be deposited, pledged and used as in this Act provided.

SECTION 11. The Commissioner of Revenues is hereby authorized

and directed to establish and maintain a permanent ledger record of all leases and agreements for the production or taking of oil, gas, casing-head gas, sand, gravel, coal or other minerals or hydrocarbons from the beds or bars of navigable rivers and lakes in the State of Arkansas or any other lands owned by or held in the name of the State of Arkansas. The person, firm, company, corporation or association entering into such a lease or agreement with the State of Arkansas shall pay to the Commissioner of Revenues a five dollar (\$5.00) charge for the recording of each said lease or agreement in said permanent ledger record and the maintaining of said ledger record. The proceeds of said five dollar (\$5.00) charge are hereby specifically declared to be cash funds and shall not be placed in the State Treasury but shall be deposited in the "Revenue Department Building Fund", hereafter in this Act created. So long as any Revenue Bonds issued under this Act shall be outstanding, until the entire principal of and interest on said outstanding bonds shall be paid or adequate provision made for the payment thereof, said charge shall be collected and the monies received therefrom shall be deposited, pledged and used as in this Act provided.

SECTION 12. (a) There is hereby created a Trust Fund which shall be designated "Revenue Department Building Fund" which shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. There shall be deposited into this fund the following:

(1) All moneys collected on and after the first day of the month next following the effective date of this Act from the charge for Certificate of Title referred to in Section 10 of this Act.

(2) All moneys collected from the charge imposed by Section 11 of this Act.

(3) All moneys received by the Commission from any other source whatever, including, without limitation, rental from other agencies, if any.

(b) All monies in the Revenue Department Building Fund shall be used solely, and in the order of priority, hereinafter specified:

(1) Beginning on the first day of the month immediately following the month within which Revenue Bonds are issued under this Act, and continuing on the first day of each month thereafter until the principal of and interest on all bonds issued under this Act are paid, or adequate provision made for their payment, there shall be transferred from the Revenue Department Building Fund and deposited in a trust fund which is hereby created and designated "Revenue Department Building Bond Fund" (herein sometimes called "Bond Fund") a sum equal to at least one-sixth ($\frac{1}{6}$) of the next installment of interest and one-twelfth ($\frac{1}{12}$) of the next installment of principal and the amounts necessary to provide for the paying agent's fees, plus such additional amounts, if any, as shall be required to insure that on the next interest paying date and the next principal paying date there will be sufficient funds in the Bond Fund to pay the interest and principal then maturing and plus such additional amounts as shall be necessary to establish and maintain a

reserve for contingencies in the Bond Fund (if the Commission deems it necessary or desirable to provide for such reserve) in such amount as the Commission may determine; provided, however, that if the amount deposited in the Bond Fund in any month pursuant to the preceding provisions of this Section 12 (b) (1) shall be less than fifty per centum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act and less than one hundred per centum (100%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges imposed by Section 11 of this Act, there shall be deposited into the Bond Fund the additional amount necessary to make the total deposit for said month equal fifty per centum (50%) of said deposit of charges referred to in Section 10 and one hundred per centum (100%) of said deposit of charges imposed by Section 11. The Bond Fund shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. The monies in the Bond Fund shall be used for no other purpose than to pay the principal of, interest on, redemption premiums, if any, and paying agent's fees in connection with the bonds issued under this Act, at maturity or at redemption prior to maturity.

(2) On the first day of the month next following the month in which collections from the charges referred to in Section 10 of this Act are first deposited into the Revenue Department Building Fund pursuant to the provisions of Section 12 (a) (1) and continuing on the first day of each month thereafter through the first day of the month immediately preceding the month on the first day of which deposits into the Bond Fund are required to be made pursuant to the provisions of Section 12 (b) (1), there shall be withdrawn from the Revenue Department Building Fund and deposited into the State Treasury as a special revenue and there credited to the Constitutional and Fiscal Agencies Fund fifty per centum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act. Commencing on the first day of the month on which date deposits are required to be made into the Bond Fund pursuant to the provisions of Section 12 (b) (1) and continuing on the first day of each month thereafter as long as said deposits into the Bond Fund are required to be made, there shall be withdrawn from the Revenue Department Building Fund and deposited in the State Treasury (and, there credited as aforesaid) that portion of the amounts deposited into the Revenue Department Building Fund during the preceding month from the charges referred to in Section 10 of this Act not required to be deposited into the Bond Fund by the provisions of Section 12 (b) (1) of this Act but in no event more than fifty per centum (50%) of the amount deposited into the Revenue Department Building Fund during the preceding month from said charges referred to in Section 10.

(3) The monies remaining in the Revenue Department Building Fund after the provisions of Section 12 (b) (1) and (2) have been fully

complied with, may be used, at the option of the Commission, for the payment of the expenses of the Commission incurred in the carrying out of its functions and powers under this Act or may be transferred to the Bond Fund.

(c) After the principal of and interest on all bonds issued under this Act are fully paid, or adequate provision made for their payment, all monies then remaining in the Revenue Department Building Fund and in the Bond Fund and all monies received from collections of the charges referred to in Section 10 of this Act and all monies received from collections of the charge imposed by Section 11 of this Act shall be deposited in the State Treasury as a special revenue, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 13. (a) The Commission is authorized and empowered to issue revenue bonds in the total principal amount of not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) and to use the proceeds thereof for defraying the cost of constructing the Revenue Department Building (including, without limitation, all construction costs, architectural and engineering fees, legal fees and other necessary expenses), to defray the expenses of issuing the revenue bonds, to provide for the creation of a reserve for contingencies fund (if the Commission deems it necessary or desirable) and to provide for the payment of interest on the bonds, if necessary, until sufficient funds are available therefor in the Bond Fund.

(b) Said revenue bonds shall be authorized by resolution of the Commission. The bonds shall be coupon bonds payable to bearer, may be made subject to registration as to principal only, may be dated on such date, may mature at such time or times, not exceeding twenty (20) years from date, may bear interest at such rate or rates, not exceeding four and one-half per cent ($4\frac{1}{2}\%$) per annum, may be in such form, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, and may contain such terms, covenants and conditions not inconsistent with the provisions of this Act, as the authorizing resolution may provide, including, without limitation, those pertaining to the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the maintenance of funds and reserves, the nature and extent of the security, the rights, duties and obligations of the Commission and the Trustee for the holders or registered owners of the bonds, and the rights of the holders or registered owners of the bonds. Bonds issued hereunder shall have all the qualities of negotiable instruments under the Negotiable Instruments Laws of this State.

(c) Revenue bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published once a week for three (3) consecutive weeks in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale. The Commission shall pay no fiscal agents' fees in connection with the sale or issuance of the bonds. The bonds may be

sold at such price as the Commission may accept, but in no event shall any bid be accepted which shall be less than par and accrued interest on the basis of the interest rate bid, nor shall any bid be accepted which specifies an interest rate in excess of four and one-half per cent (4 ½%) per annum. The bonds may be sold with the privilege of conversion to an issue bearing a lower rate or rates of interest upon such terms that the Commission receive no less and pay no more than it would receive and pay if the bonds were not converted and the conversion shall be subject to the approval of the Commission.

(d) Revenue bonds issued hereunder shall be executed by the manual signature of the Chairman of the Commission and by the manual signature of the Secretary of the Commission. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. The Commission shall adopt and use a seal in the execution and issuance of bonds authorized hereunder and each bond shall be sealed with the seal of the Commission.

SECTION 14. It shall be plainly stated on the face of each revenue bond that the same has been issued under the provisions of this Act, and revenue bonds issued hereunder shall be general obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged. No member of the Commission shall be personally liable on the bonds, or for any damages sustained by anyone in connection with the contracts with the holders or registered owners of the bonds or the construction and equipping of the Revenue Department Building unless he shall have acted with a corrupt intent. All covenants and agreements entered into and made by the Commission shall be binding in all respects upon the Commission and the members thereof and their successors from time to time in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 15. The principal of, interest on, and paying agent's fees in connection with the Revenue Bonds issued under this Act shall be secured by a pledge of the gross revenues collected from the charges referred to in Section 10 of this Act and the charges imposed by Section 11 of this Act and the gross revenues derived from the leasing or renting of space in the Revenue Department Building to other agencies (it being understood that although all of the gross revenues collected from the charges referred to in Section 10 of this Act are pledged that portion described in Section 12 of this Act not required by the provisions of said Section 12 to be deposited in the Bond Fund will be withdrawn from the Revenue Department Building Fund and deposited in the State Treasury and credited as in said Section 12 provided and the portion so withdrawn will at the time of withdrawal in accordance with the

provisions of said Section 12 and thereafter be released from said pledge), which revenues have been elsewhere in this Act and are hereby specifically declared to be cash funds, restricted in their use, and dedicated and to be used solely as provided in this Act. The principal of, interest on, and paying agent's fees in connection with the bonds shall be payable solely from the monies in the Bond Fund and the monies required by this Act to be deposited in the Bond Fund.

SECTION 16. All officers, departments, agencies and commissions of the State of Arkansas are hereby expressly authorized to execute and to enter into lease agreements with the Commission for the leasing of space in the Revenue Department Building when there is space therein over and above the requirements of the State Revenue Department. Such lease agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and particular state officer, agency or Commission to be appropriate and in the best interests of all concerned. All such lease agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency or commission performing the functions exercised by the agency or commission executing the lease agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 17. Revenue bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 18. The Board of Trustees of any retirement system created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in the bonds of the Commission issued under the provisions of this Act.

SECTION 19. The agency of the State authorized by law to audit the records and accounts of the various state agencies is hereby authorized and directed to audit the records and accounts of the Commission, and to furnish a copy of the report thereof to the Commission.

SECTION 20. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the Arkansas Revenue Department Building, and to supervise and inspect such construction. After the Commission shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction and equipping of the Arkansas Revenue Department Building in accordance with applicable laws governing the constructing and equipping of public buildings.

SECTION 21. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners,

methods or things.

SECTION 22. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until bonds authorized by this Act shall have been issued and actually sold by the Commission.

SECTION 23. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause, shall not affect the validity of the remainder of the Act.

SECTION 24. On the first day of the month next following the effective date of this Act, the balance in the Revenue Department Building Fund in the State Treasury shall, by the State Treasurer, be transferred to the Constitutional and Fiscal Agencies Fund, there to be used, as appropriated by the General Assembly, for the operation and maintenance of the Revenue Department Building, and as of said date (the first day of the month next following the effective date of this Act) Act 266, approved March 14, 1961, and Sections 2, 3 and 4 of Act 436, approved March 15, 1961, are hereby repealed.

SECTION 25. It has been found and it is hereby declared by the General Assembly: That the principal office of the State Revenue Department is, and should be, located on the State Capitol Grounds; that its present office space is wholly inadequate to permit it to properly carry out its functions and duties as required by law; that because of such inadequacy the State is losing badly needed tax revenue and the citizens of the State of Arkansas are seriously inconvenienced in dealing with the State Revenue Department; that no other office space is available to the State Revenue Department in the State Capitol Building or in other office buildings on the State Capitol Grounds; and that only by the immediate operation of this Act may such conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force from and after its passage and approval.

APPROVED: September 8, 1961.

2. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING ACT — ACTS 1965, No. 469.

SECTION 1. This Act may be referred to and cited as the "Arkansas State Department of Health Building Act".

SECTION 2. There is hereby created and established a commission to be known as the "Arkansas State Department of Health Building Commission", hereafter sometimes referred to as the "Commission".

SECTION 3. The Commission shall consist of five (5) members. The State Health Officer shall be an ex officio member of the Commission and shall be Chairman. Four (4) members of the Commission shall be appointed by the Governor from resident electors of this State. The

Commission shall designate a Secretary, who need not be a member of the Commission.

SECTION 4. Members of the Commission shall receive no pay for their services but, with respect to attendance at each regular or special meeting of the Commission, appointive members shall be entitled to Fifteen Dollars (\$15.00) per diem, plus a mileage allowance for each mile traveled from his home to the place of meeting and return in the amount approved, from time to time, for State employees.

SECTION 5. The terms of office of the original members of the Commission so appointed by the Governor shall commence upon qualification after appointment and shall be arranged by the Governor in such manner that the term of one (1) of such members shall expire on the 14th day of January of each year, beginning with January 14, 1966. For each member appointed by the Governor for a regular term subsequent to the expiration of the term of the original member, the term of office shall commence on the 15th day of January following such expiration date and shall end on the 14th day of January of the fourth year following the year in which such regular term commenced. Any vacancies arising in the membership of the Commission so appointed by the Governor for any reason other than the expiration of the regular terms for which such members were appointed, shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

SECTION 6. The Commission is hereby authorized and empowered to:

(a) Arrange for a suitable site for the State Department of Health Building either on the State Capitol Grounds as now or hereafter existing or on the State Hospital Grounds, as now or hereafter existing, in the City of Little Rock, Arkansas, and thereafter on the site so selected construct and equip a State Department of Health Building. In this regard, the appropriate board, agency or officers of the State of Arkansas in charge of the properties upon which a site may be selected are hereby authorized and directed to negotiate with the Commission and to make available to the Commission such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of the particular board, agency or officers or of other State boards, agencies or officers for land use purposes.

(b) Arrange for the housing of the various divisions, units, agencies, officers and employees under the jurisdiction of the State Board of Health, the State Health Officers and the State Department of Health and such other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals, if any, as the Commission may determine.

(c) Construct or cause to be constructed parking facilities to serve the State Department of Health Building and to serve such other agencies, officers and employees and the public having business therein.

(d) Obtain the necessary funds for financing the objects specified in this Section 6.

(e) Purchase, lease or rent and receive bequests or donations of, and sell or barter, any property, personal or mixed, or convert into money any property bequeathed or donated to it not needed or which cannot be used in the form received.

(f) Establish accounts in one (1) or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys, and properties from agencies of the Government of the United States of America, from any State or other Governmental agency, from any public or private corporation, agency or organization of any nature, and from any individual group.

(i) Invest and reinvest any of its moneys.

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authority in this Act conferred and to carry out the intent and purposes of this Act.

SECTION 7. Meetings of the Commission shall be held on call by the Chairman or by any three or more members on advance notice to each member, at such place or places as may suit the Commission's convenience. Meetings of the Commission shall be open to the public, and records of the proceedings thereof shall be kept. A quorum for the transaction of business at any meeting shall consist of not less than three (3) members and the affirmative vote of three (3) members shall be requisite for the authorizing or approval of any action or the passage or adoption of any motion or resolution.

SECTION 8. The Chairman of the Commission shall be custodian of the State Department of Health Building, and shall be the Commission's disbursing agent and executive officer. The Commission may, by resolution duly adopted, delegate to the Chairman any of the powers or functions vested in or imposed upon it by this Act, and until such a resolution shall subsequently have been modified or rescinded, such delegated powers and functions may be exercised by the Chairman in the name of the Commission. The Chairman shall furnish bond to the State, with a corporate surety thereon, in the penal sum of Twenty Five Thousand Dollars (\$25,000), conditioned that he will faithfully perform his powers, functions and duties and properly handle all funds received and disbursed by him and account therefor. An additional disbursing agent's bond shall not be required of the Chairman, and the bond so furnished shall be kept in the office of the Auditor of State. The premium on the bond shall be a proper charge against funds of the Commission.

SECTION 9. The State Department of Health Building after its completion shall house the State Board of Health, the State Health Officer, the State Department of Health divisions, and the divisions, units, agencies, officer and employees under the supervision thereof, and shall contain facilities for the proper conduct of the business of the

State Board of Health, the State Department of Health, and such divisions, units, agencies, officers and employees thereof. In addition, the State Department of Health Building may house such others as space and facilities will permit from time to time.

SECTION 10. [Codified as 20-7-123.]

SECTION 11. (a) The Commission is hereby authorized and empowered to issue revenue bonds from time to time in the total aggregate principal amount of not to exceed Three Million Dollars (\$3,000,000) and to use the proceeds thereof, together with any other available funds, for defraying the costs of the objects set forth in Section 6 thereof, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the bonds, and for providing for the creation of a reserve for contingencies to secure the payment of the bonds, if the Commission deems it necessary or desirable, and for providing for the payment of interest on bonds, if necessary, until sufficient funds are available therefor out of pledged revenues.

(b) Said revenue bonds shall be authorized by resolution of the Commission. All bonds to the total authorized principal amount may be issued at one time or, as determined by the Commission, in series from time to time, in which event the initial series shall be designated Series A and subsequent series shall be designated in alphabetical order. The bonds of each series shall rank on a parity as to lien on the revenues pledged for their payment and as to the security for their payment with the bonds of other series, regardless of date of issuance. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only with interest coupons, or may be registrable as to both principal and interest without coupons, and may be made exchangeable for bonds of another denomination, which bonds of another denomination may in turn be either coupon bonds payable to bearer or coupon bonds registrable as to principal only, or bonds registrable as to both principal and interest without coupons; may be in such form and denomination; may have such date or dates; may be stated to mature at such times; may bear interest payable at such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding $4\frac{1}{2}\%$ per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such prices; and may contain such terms and conditions, all as the Commission shall determine. The bonds shall have the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership, as set forth above. The authorizing resolution may contain any other terms, covenants and conditions that are deemed desirable, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the rights, duties and obligations of the Commission and of the holders and registered owners of the bonds as the Commission shall determine.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids.

Notice of the sale shall be published once a week for three (3) consecutive weeks in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale. The Commission shall pay no fiscal agent's fees in connection with the sale or issuance of the bonds. The bonds may be sold at such price as the Commission may accept, but in no event shall any bid be accepted which shall be less than par and accrued interest on the basis of the interest rate bid, nor shall any bid be accepted which specifies an interest rate in excess of 4½% per annum. The award, if made, shall be to the bidder whose bid results in the lowest net interest cost determined by computing the aggregate interest cost at the rate bid and deducting therefrom any premium. The bonds may be sold with the privilege of conversion to an issue bearing a lower rate or rates of interest upon such terms that the Commission receive no less and pay no more than it would receive and pay if the bonds were not converted and the conversion shall be subject to such conditions as shall be specified by the Commission and shall be subject to the approval of the Commission.

(d) Bonds issued hereunder shall be executed by the manual or facsimile signature of the Chairman of the Commission and by the manual signature of the Secretary of the Commission. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signature shall nevertheless be valid and sufficient for all purposes. The Commission shall adopt and use a seal in the execution and issuance of bonds authorized hereunder and each bond shall be sealed with the seal of the Commission.

SECTION 12. It shall be plainly stated on the face of each bond that the same has been issued under the provisions of this Act and bonds issued hereunder shall be general obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged and the bonds shall not be secured by a mortgage or lien on any land or building belonging to the State of Arkansas. No member of the Commission shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act unless he shall have acted with a corrupt intent.

SECTION 13. The principal of, interest on and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of the fee revenues referred to in Section 10 of this Act and the gross revenues derived from the leasing or renting of space in the State Department of Health Building to others, herein collectively referred to as "pledged revenues", and such pledged revenues are hereby specifically declared to be cash funds restricted in their use, and

dedicated and to be used solely as provided in this Act. There is hereby created a fund designated "State Department of Health Revenue Bond Fund" to be maintained at such depository as shall be specified by the Commission, which fund shall be a trust fund and after the issuance of any bonds hereunder moneys therein shall be appropriated solely for the payment of the principal of, interest on and paying agent's fees in connection with the bonds at maturity and at redemption prior to maturity, except moneys that are withdrawn therefrom pursuant to the subsequent provisions hereof, all as shall be specified and subject to the terms and conditions set forth in the authorizing resolution of the Commission. The pledged revenues shall not be deposited into the State Treasury, but, as and when received, shall be deposited into the State Department of Health Revenue Bond Fund. On March 1, June 1, September 1 and December 1 of each year, if not required for paying the principal of, interest on, and paying agent's fees in connection with the bonds as the same become due, there shall be released from the pledged revenues and withdrawn from the State Department of Health Revenue Bond Fund and deposited, as a special revenue, to the credit of the Public Health Fund in the State Treasury, that amount of the pledged revenues equaling the sum of the following:

(a) One-half of the revenues derived from the fee referred to in Section 10 (a) (3) hereof;

(b) One-fourth of the revenues derived from the fee referred to in Section 10 (a) (5) hereof;

(c) One-half of the revenues derived from the fee referred to in Section 10 (a) (6) hereof;

(d) One-half of the revenues derived from the fee referred to in Section 10 (a) (8) hereof;

(e) One-fourth of the revenues derived from the fee referred to in Section 10 (a) (9) hereof.

The Commission may, if it so desires, use any of the pledged revenues in the State Department of Health Revenue Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of the objects set forth in Section 6 of this Act. The principal of, interest on and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the State Department of Health Revenue Bond Fund and the moneys required by this Act to be deposited into the State Department of Health Revenue Bond Fund. The Commission is directed to insert appropriate provisions in the authorizing resolution for the investing and reinvesting of moneys in the State Department of Health Revenue Bond Fund in short term direct obligations of the United States of America having maturity dates not later than the date that the moneys therein will be needed for the authorized purposes and all income derived from such investments shall be and become a part of the State Department of Health Revenue Bond Fund.

SECTION 14. All officers, departments, agencies and commissions of the State of Arkansas are hereby expressly authorized to execute and enter into Lease Agreements with the Commission for the leasing of

space in the State Department of Health Building when there is space therein over and above the requirements of the State Board of Health, the State Health Officer, the State Department of Health, and the divisions, units, agencies, officers and employees required by this Act to be housed therein. Such Lease Agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the particular State Officer, department, agency or commission to be appropriate and in the best interests of all concerned. All such Lease Agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor department, agency or commission performing the functions exercised by the department, agency or commission executing the Lease Agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 15. Each resolution authorizing the issuance of bonds under this Act shall, together with this Act, constitute a contract by and between the Commission and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other appropriate proceedings at law or in equity.

SECTION 16. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 17. The Board of Trustees of any retirement system now existing or hereafter created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in bonds issued under the provisions of this Act.

SECTION 18. The agency of the State authorized by law to audit the records and accounts of the various State agencies is hereby authorized and directed to audit the records and accounts of the Commission and to furnish a copy of the report thereof to the Commission.

SECTION 19. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the State Department of Health Building and to supervise and inspect such construction. After the Commission shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction and equipping of the State Department of Health Building in accordance with applicable laws governing the constructing and equipping of public buildings. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it to effectively carry out

the functions, powers and duties conferred and imposed upon it by this Act.

SECTION 20. The Commission shall include necessary provisions in the authorizing resolution to require the deposit of the proceeds of the bonds (except the accrued interest) into a special construction fund which shall be a trust fund in such depository as the Commission shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation and all moneys in said construction fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested as hereafter provided. The accrued interest received by the Commission at the delivery of the bonds shall be deposited into the State Department of Health Revenue Bond Fund. The moneys in said construction fund shall be used solely as specified in Section 11 (a) hereof. The Commission shall include appropriate provisions in the authorizing resolution pertaining to the investing and reinvesting of moneys in said construction fund in short term direct general obligations of the United States of America and all income derived from such investments shall be deemed to constitute and be a part of said construction fund.

SECTION 21. Sole and complete jurisdiction and authority is hereby vested in the Commission to hold, deal with and dispose of the present State Department of Health building (called "present health building"). The Commission is hereby authorized and directed to take the necessary steps to either sell the present health building to another agency or department of the State of Arkansas upon such terms as shall be mutually agreeable to the parties involved or to lease all or portions of the present health building and space therein to other agencies and departments of the State of Arkansas upon such terms as shall be mutually agreeable to the parties involved. In this regard, all other agencies and departments of the State of Arkansas are hereby expressly authorized to execute and enter into necessary contracts and agreements, including lease agreements, with the Commission for the acquisition of or the leasing of space in the present health building.

SECTION 22. [Codified as 20-7-123n.]

SECTION 23. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or, things.

SECTION 24. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or Series A in the event the bonds are delivered in series, shall have been actually sold and delivered by the Commission.

SECTION 25. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the

remainder of the Act.

SECTION 26. All acts and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 27. It is hereby found and declared by the General Assembly that the present building is wholly inadequate to house the State Board of Health, the State Health Officer, the State Department of Health and the divisions, units, agencies, officers and employees thereof, with the result that it is impossible to properly and efficiently carry out functions and duties required by law; that because of such inadequacy the State is not having its health and related needs properly taken care of, all of which is to the detriment of the public health, safety and welfare; and that only by the immediate operation of this Act can these conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force from and after its passage and approval. APPROVED: March 20, 1965.

3. WAR MEMORIAL STADIUM, ADDITIONAL BONDS — ACTS 1970 (1ST EX. SESS.), No. 9.

SECTION 1. The Stadium Commission created under the provisions of Act 249, approved March 18, 1947, is hereby authorized and empowered to borrow funds from time to time not exceeding the principal sum of \$400,000 outstanding at any one time for the purpose of financing the cost of improvements to and extensions of the physical plant of War Memorial Stadium and expenses incidental thereto which the Stadium Commission may determine in its discretion to construct.

SECTION 2. As evidence of any such loan of funds the Stadium Commission is authorized and empowered to issue one series of bonds, certificates of indebtedness or other debt obligations provided that the principal amount thereof shall not exceed the sum of \$400,000. Such bonds, certificates of indebtedness or other debt obligations shall have such date or dates, shall mature at such time or times, shall be in such form and denominations, may be subject to such terms of redemption, shall bear such rate or rates of interest and shall be sold for such price or prices, and in such manner, all as the Stadium Commission in its discretion by resolution shall determine. The said bonds, certificates of indebtedness or other debt obligations shall have all the qualities of negotiable instruments under the laws of the State of Arkansas. The said bonds, certificates of indebtedness or other debt obligations shall be considered as obligations only of the Stadium Commission, and in no event shall they ever be considered a debt for which the faith and credit of the State of Arkansas or any of its revenues are pledged.

SECTION 3. The Stadium Commission is empowered and authorized to provide for the retirement of such bonds, certificates of indebtedness or other debt obligations by a pledge of a portion of the net revenues of the Stadium Commission not otherwise pledged to secure existing debt,

specifically including those funds presently pledged to payment of any outstanding 2-¼% War Memorial Stadium Revenue Bonds and also any outstanding War Memorial Stadium Revenue Refunding Bonds.

SECTION 4. This Act shall not create any right of any character and no right of any character shall arise under or pursuant to it, unless and until bonds, certificates of indebtedness or other debt obligations authorized by this Act shall have been actually sold and delivered.

SECTION 5. Interest on all bonds, certificates of indebtedness or other debt obligations issued under this Act shall be exempt from State Income Taxes and principal shall be exempt from Inheritance and Estate Taxes.

SECTION 6. The provisions of this Act are hereby declared to be severable. If any provision shall be held to be invalid or to be inapplicable to any person or circumstances, such holding shall not affect the validity or applicability of the remainder hereof.

SECTION 7. It has been found and is hereby declared by the General Assembly of the State of Arkansas that it is necessary at this time for certain extensions and improvements to be made to War Memorial Stadium, and that in order to accomplish same it is necessary for the Stadium Commission to be expressly authorized to immediately borrow funds for the financing of such improvements in order that same be completed by the 1970 football season; and that these necessary improvements can be accomplished only by the immediate effect of this Act. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval. APPROVED: March 13, 1970.

4. ARKANSAS DEPARTMENT OF PUBLIC SAFETY BUILDING ACT — ACTS 1977,
NO. 490 AS AMENDED BY ACTS 1979, NO. 1086, §§ 2-5; 1980 (1ST EX.
SESS.), NO. 7.

SECTION 1. This Act shall be known and may be cited as the “Arkansas Department of Public Safety Building Act”.

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

“Act No. 716” means Act No. 716 of 1975, as now in effect or as hereafter amended.

“Agency” or “State agency” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

“Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

“Building” means the Arkansas Department of Public Safety Building, the construction of which is authorized by this Act. As used herein, the term “Building” means a single building or such complex of buildings as may be determined best to serve the needs of the Department including the Crime Laboratory shall refer to and include

such related structures, fixtures, and facilities (including, without limitation, parking facilities) as may be determined to be appropriate.

“Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Building and to make other necessary expenditures in connection therewith, by such methods and in such manner as the State Building Services shall determine to be necessary or desirable to accomplish the powers, purposes, and authorities set forth in this Act.

“Division” means any division, bureau, section, office or officer of the Department.

“Department” means the Department of Public Safety of the State of Arkansas, created by Act No. 38 of 1971, as amended, and any successor agency.

“Pledged revenues” means all revenues authorized by Section 7 of this Act to be pledged for the security and payment of the bonds.

“The State Building Services” means Arkansas State Building Services, being the agency created by Act No. 716, or any successor agency.

SECTION 3. In addition to the powers, purposes, and authorities set forth elsewhere in this Act or in other laws, the State Building Services is hereby authorized and empowered to:

(a) construct the Arkansas Department of Public Safety Building, on a site or sites selected by the State Building Services. In this regard, the State Building Services is authorized to acquire such site or sites, from a State agency or agencies and/or from a private owner or owners, by negotiation or by condemnation as provided by Section 3 of Act No. 716, which acquisition is hereby expressly approved;

(b) arrange for the housing in the Building of the various divisions of the Department including the Crime Laboratory and arrange for the housing of other agencies and of other tenants to the extent that space and facilities may not be needed by the Department from time to time and with reference to other agencies and other tenants to rent, lease or otherwise make available space and facilities upon such terms and conditions and for such rentals and charges, if any, as the State Building Services may determine;

(c) construct or cause to be constructed parking facilities to serve the Building;

(d) obtain the necessary funds for accomplishing its powers, purposes, and authorities from any source or sources, including, without limitation, the proceeds of revenue bonds issued hereunder, funds appropriated and made available under Act No. 716, and funds, if any appropriated for the Building;

(e) purchase, lease, or rent, and received bequests or donations of, or otherwise acquire, sell, trade, or barter, any property, (real, personal or mixed) and convert such property into money and/or other property;

(f) contract and be contracted with;

(g) apply for, receive, accept, and use any monies and property from

the Government of the United States of America, any agency, any State or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual;

(h) invest and reinvest any of its monies (in securities selected by the State Building Services);

(i) take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes, and authorities set forth in this Act and to carry out the intent of this Act.

The powers, purposes, and authorities set forth herein shall be carried out in accordance with the duly promulgated policies of the State Building Services Council, under and pursuant to Act No. 716.

SECTION 4. The Department of Public Safety Building shall house the Department including the Crime Laboratory or such facilities and Division thereof as space and facilities will permit from time to time. In addition, to the extent that space and facilities are not at any time needed by the Department, the Building may house such other agencies and other tenants as the State Building Services shall determine.

SECTION 5. (a) The State Building Services is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, and to use the proceeds thereof for defraying the costs of accomplishing all or part of the powers, purposes, and authorities set forth in this Act, paying all incidental expenses in connection therewith, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the State Building Services deems such desirable, and making provision for the payment of interest on the bonds during and for up to one (1) year after construction, if the State Building Services deems such desirable. Bonds outstanding under this Act shall not exceed Six Million Five Hundred Thousand Dollars (\$6,500,000) in principal amount.

(b) The bonds shall be authorized by the resolution of the State Building Services Council ("authorizing resolution"). The bonds may be coupon bonds payable to bearer, or may be registrable as to principal only or as to principal and interest, may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, provided that no bond may bear interest at a rate exceeding ten percent (10%) per annum, may be payable at such place or places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the State Building Services shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth above. The authorizing resolution may contain any other terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and

the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and of the holders and registered owners of the bonds.

The authorizing resolution may provide for the execution by the State Building Services with a bank or trust company within or without the State of Arkansas of a trust indenture. The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds, and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and of the holders and registered owners of the bonds.

(c) The bonds shall be sold at public sale on sealed bids, and notice of the sale shall be published once in a newspaper published in the City of Little Rock, Arkansas, having a general circulation throughout the State of Arkansas, at least twenty (20) days prior to the date of sale, and may be published in such other publications as the State Building Services may determine. The bonds may be sold at such price as the State Building Services may accept, including sale at a discount, but in no event shall any bid be accepted which results in a net interest cost (determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting any premium or adding the amount of any discount) in excess of the interest cost computed at par for bonds bearing interest at the rate of ten percent (10%) per annum. The award, if made, shall be to the bidder whose bid results in the lowest net interest cost.

(d) The bonds shall be executed by the manual or facsimile signatures of the Chairman and Secretary of the State Building Services Council, provided that one of such signatures must be manual. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Council. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signature shall, nevertheless, be valid and sufficient for all purposes. The State Building Services shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the State Building Services.

(e) There may be issued separate bonds hereunder and separate series within each issue. In any event, the authorizing resolution shall

specify the amount of revenues derived from motor vehicle inspection fees identified in subsection (a) of Section 7 to be pledged for the security and payment of bonds authorized hereby.

SECTION 6. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act, that the bonds shall be obligations only of the State Building Services, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (within the meaning of Amendment No. 20 to the Constitution of the State of Arkansas) are pledged, and that they are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas. No member of the State Building Services Council shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act, unless he shall have acted with a corrupt intent.

(b) The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the pledged revenues, defined in Section 7 hereof. The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provision for the use of surplus revenues, if any, for other lawful purposes.

SECTION 7. (a) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this Act shall be secured solely by a lien on and pledge of:

(1) all revenue derived from a fee of forty-one cents (\$.41), hereby fixed and levied as an allocation of each fee for the inspection of any motor vehicle pursuant to Act 638 of 1967, as amended, or pursuant to any similar law, provided that the authorizing resolution shall designate the amount of each fee pledged to the bond issued pursuant to said resolution, and

(2) the gross revenues, if any, derived from the leasing or renting to other agencies or other tenants of space in the Building, the pledging of such revenues (collectively the "pledged revenues") being hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this Act. Commencing the first day of the month next succeeding the issuance of bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation but, as and when received (by the Department, by the State Building Services, or by any other State agency, as the case maybe) shall be deposited in a bank or banks selected by the State Building Services, to the credit of funds designated the "Department of Public Safety Building Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all monies in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and

trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this Section 7 is intended to prohibit the State Building Services from investing monies received hereunder, as provided in this Act.

(b) The State Building Services may use any of the pledged revenues prior to the issuance of any bonds hereunder for defraying costs of accomplishing the powers, purposes, and authorities set forth in this Act.

(c) So long as there are outstanding any bonds issued under this Act, the General Assembly may eliminate or change the fees for the inspection of motor vehicles, under Act No. 638 of 1967, or any subsequent similar law, but only on condition that there is always maintained in effect and made available for the payment of outstanding bonds sources of revenue which produce revenues at least sufficient in amount to provide for the payment when due of the principal of, premium, if any, interest on, and trustee's and paying agent's fees in connection with the outstanding bonds and to comply with all covenants (including, without limitation, the maintenance of funds and revenues) in favor of the holders or registered owners of such outstanding bonds.

SECTION 8. Any authorizing resolution and trust indentures shall, together with this Act, constitute a contract between the State Building Services and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the State Building Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

(1) that, to the full extent possible, it will continuously operate the building as a revenue-producing undertaking, including the maintenance of occupancy and use of facilities and space so as to avoid any impairment of the security for the bonds; and

(2) that, to the full extent possible, it will always charge, impose and collect sufficient revenues (including, without limitation, rentals) to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and funds.

SECTION 9. It has been found by the General Assembly of the State of Arkansas that adequate housing for the Department of Public Safety is essential to the proper administration of any motor vehicle safety inspection program and to motor vehicle and highway safety generally.

SECTION 10. Bonds issued under the provisions of this Act, and the

interest thereon, shall be exempt from all State, county, and municipal taxes, except property taxes, and the exemption shall include income, inheritance, and estate taxes.

SECTION 11. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the firemen's relief and pension fund, and the policemen's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, and bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 12. The State Building Services is hereby authorized to employ architects to prepare plans, specifications, and estimates of cost for the construction of the Building and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction of the Building in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage and pay such professional, technical, and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this Act.

SECTION 13. The State Building Services shall include necessary provisions in the authorizing resolution or trust indenture to require the deposit of the proceeds of the bonds, or any series thereof (except amounts for interest or reserves, which may be deposited in the Bond Fund) into a special Construction Fund ("Construction Fund") which shall be a trust fund in such depository as the State Building Services shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation, and all monies in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested in securities specified by the State Building Services. The monies in the Construction Fund shall be used solely for the powers, purposes, and authorities set forth in this Act.

SECTION 14. Bonds may be issued for the purpose of refunding any bonds issued under this Act. Refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or authorized investments for the retirement of the bonds being refunded, as shall be specified by the State Building Services in the authorizing resolution or trust indenture securing the refunding bonds and subject to compliance with the provisions of the authorizing resolution or trust indenture securing the bonds being refunded. The authorizing resolution or trust

indentures securing the refunding bonds may provide that the refunding bonds shall have the same priority of pledge as was enjoyed by the bonds refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this Act pertaining to the sale and security of bonds.

SECTION 15. This Act shall not create any right in any bondholder for bonds issued pursuant to this Act, and no right for such bondholder shall arise under it, until bonds authorized by this Act (or the initial issue or series) shall have been sold and delivered by the State Building Services.

SECTION 16. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

SECTION 17. The provisions of this Act are hereby declared to be severable. If any provision of this Act shall be held invalid or inapplicable to any person, firm or circumstance, such invalidity or inapplicability shall not effect the validity or inapplicability of the remainder of the Act.

SECTION 18. This Act shall be complete and sole authority for the accomplishment of the purposes hereof. To the extent that there is a conflict between the provisions of this Act and Act No. 716, the provisions of this Act shall govern. All laws and parts of laws in conflict herewith, except Act No. 716, are hereby repealed to the extent of such conflict.

SECTION 19. The General Assembly hereby finds and declares the present facilities for the housing of the Department of Public Safety are not adequate and that there is an urgent need that the Building be constructed in order that the Department may continue to carry out its responsibilities. Therefore, an emergency is declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be effective upon its passage and approval. APPROVED: March 18, 1977.

5. ARKANSAS STATE EDUCATION BUILDING EXPANSION ACT — ACTS 1977, No. 554.

SECTION 1. This Act may be referred to and cited as the “Arkansas State Education Building Expansion Act.”

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

“Agency” or “state agency” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

“Board” means the State Board of Education of the State of Arkansas.

“Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

“1969 Bonds” means the State Board of Education of the State of

Arkansas Building Revenue Bonds, dated March 1, 1969, authorized by and issued under Act No. 18 of the First Extraordinary Session of the Sixty-Sixth General Assembly of the State of Arkansas, approved February 15, 1968.

“Building” means the State Education Building, located on the State Capitol Grounds, including the structure known as the Arch Ford Education Building. The Building also includes the Expansion.

“Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the Board shall determine to be necessary or desirable to accomplish the powers, purposes and authorities set forth in this Act in accordance with Act No. 716 of 1975 as and to the extent applicable.

“Division” means any division, bureau, section, office or officer of the Department.

“Department” means the Department of Education of the State of Arkansas.

“Expansion” means any additions, extensions, or improvements to the Building and may include parking facilities to serve the Building and any necessary or appropriate remodeling and improvements to the present Building and its facilities, with appropriate equipment and furnishings, all as determined by the Board.

“Pledged revenues” means all revenues authorized by Section 7 of this Act to be pledged for the security and payment of the bonds.

SECTION 3. In addition to the powers, purposes and authorities set forth elsewhere in this Act, the Board is hereby authorized and empowered to:

(a) Construct an Expansion to the Building on a site or sites selected by the Board. In this regard, the appropriate agency in charge of the lands upon which a site may be selected is hereby authorized and directed to negotiate with the Board and to make available to the Board such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of other state agencies.

(b) Arrange for the housing of the various divisions of the Department, other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals and charges, if any, as the Board may determine.

(c) Construct or cause to be constructed parking facilities to serve the Building, including the Expansion, and other agencies and the public having business therein.

(d) Obtain the necessary funds for accomplishing its powers, purposes and authorities.

(e) Purchase, lease or rent and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property, (real, personal or

mixed) and convert into money and/or other property any property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1969 Bond.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys and property from the Government of the United States of America, any agency, any state or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual.

(i) Invest and reinvest any of its moneys (in securities selected by the Board).

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes and authorities set forth in this Act and to carry out the intent of this Act.

The powers, purposes and authorities set forth herein shall be carried out in accordance with the duly promulgated policies of the State Building Services Council, under and pursuant to Act No. 716 of 1975.

SECTION 4. The Building, including after its completion the Expansion, shall house the Department or such facilities and divisions thereof as the Board shall determine. In addition, the Building and the Expansion may house such agencies and others as space and facilities will permit from time to time, as determined by the Board.

SECTION 5. (a) The Board is hereby authorized and empowered to issue bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any other available funds, for financing the costs of constructing the Expansion, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of bonds, the creation and maintenance of reserves to secure the payment of the bonds, if the Board deems it necessary or desirable, and the payment of interest on the bonds, if necessary or desirable, until sufficient funds are available therefor out of pledged revenues.

(b) The bonds shall be authorized by resolution of the Board. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may contain such exchange provisions; may be in such form and denomination; may have such date or dates; may be stated to mature at such time or times; may bear interest payable at such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding 10% per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such times and at such prices; and may contain such other terms and conditions, all as the Board shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership as set forth above. The authorizing resolution may contain any terms, covenants and conditions that are deemed necessary or desirable by the Board, including

without limitation, those pertaining to the creation and maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the rights, duties and obligations of the Board and of the holders and registered owners of the bonds, all as the Board shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing the terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of this sale shall be published in such publication within and/or without the State of Arkansas for such time or times, and information pertaining to the Board and the bonds shall be prepared and distributed in such form and manner and to such prospective purchasers as the Board shall determine to be best designed to obtain the most favorable bidding. The bonds may be sold at such price as the Board may accept, but in no event shall any bid be accepted which results in an interest rate in excess of 10% per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate bid and deducting the amount of any premium and adding the amount of any discount. The Board of Trustees of the Arkansas Teacher Retirement System is hereby authorized to enter a bid for the bonds and is hereby authorized, in the event that no bid should be received for the bonds, to negotiate for and purchase the bonds from the Board.

(d) Bonds outstanding hereunder shall not exceed \$1,200,000 in principal amount (except as set forth in Section 13 hereof).

(e) Bonds issued hereunder shall be executed by the Chairman of the Board and the Secretary of the Board (by manual or facsimile signatures with at least one manual signature). The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each bond shall be sealed with the seal of the Board.

SECTION 6. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Board, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No. 20 to the Constitution of the State of Arkansas) are pledged. The bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Board shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the powers, purposes or authorities of this Act unless he

shall have acted with a corrupt intent.

SECTION 7. (a) The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of all or any part of:

(1) all interest received on revolving loan bonds and revolving loan certificates of indebtedness held in the (Permanent School) Revolving Loan Fund, pursuant to Act No. 384 of 1953, as amended, or any similar law (the revolving loan obligations),

(2) the gross revenues derived from the leasing or renting of space in the Building, and

(3) revenues derived from or attributable to the use of space in the Building, to the extent that such revenues may be pledged (collectively the "pledged revenues"). Such pledged revenues are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act.

The pledged revenues shall be deposited in a trust fund in the State Treasury designated the "State Board of Education Building Expansion Revenue Bond Fund", to be appropriated and applied solely to the payment of the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds and for the creation and maintenance of reserves as specified by the authorizing resolution or trust indenture (the "debt service requirements"), except that moneys may be withdrawn pursuant to the provisions hereinbelow. In the event, however, that at any time while the bonds are outstanding, the General Assembly should fail, prior to June 1 of any odd-numbered year, to appropriate, for the ensuing biennium, all of the pledged revenues to payment of the debt service requirements of the bonds (as set forth in detail in the authorizing resolution or trust indenture), the pledged revenues shall, commencing fifteen days after such June 1, be deposited by the Board, as and when received by the Board, in a bank or banks selected by the Board, and not in the State Treasury, and shall thereupon and thereafter be so deposited, as a trust fund, and applied to payment of the debt service requirements on the bonds (except as set forth hereinbelow). As used in this Act the term "Bond Fund" shall refer and include the Treasury Fund and any other (non-treasury) fund established under this Section 7.

The authorizing resolution or trust indenture may provide that, as and to the extent not required for paying the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds, or for making deposits to required reserves, moneys shall be released from the pledged revenues and withdrawn from the Bond Fund, for deposit in a special account or accounts of the Board, and used for the purpose of paying costs of operation and maintenance of the Building.

(b) So long as any of the bonds are outstanding, the Treasurer of State shall be authorized and directed to invest (in securities selected by the Treasurer) moneys at any time held in the (permanent school)

Revolving Loan Fund as may be necessary to provide for payment of the debt service requirements.

(c) Subject to any covenants and pledges in connection with any outstanding 1969 Bonds, the Board may, if it so desires, use any of the pledged revenues in the Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of accomplishing the powers, purposes and authorities of the Board under this Act. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund. The Board is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Board), and all income derived from such investments shall be and become a part of the Bond Fund.

(d) Notwithstanding any provision of this Act, nothing herein shall be construed to authorize the pledging or assignment of any revolving loan bonds or revolving loan certificates of indebtedness now or hereafter pledged to secure payment of any of the Board's Arkansas State Board of Education Consolidated Revolving Loan Bonds issued under the authority of Act No. 59 of 1973, or any similar law hereafter enacted, or Certificates of Indebtedness issued by the Board under the authority of Act No. 479 of 1967, or any similar law.

(e) The Board may require that there be delivered to the Board in connection with the acquisition of all revolving loan obligations a copy of the resolution of the board of directors of the issuing school district authorizing the pledged securities, together with a certificate executed by the president and secretary of the board of directors certifying that the action necessary for the valid authorization and issuance of the revolving loan obligations has been duly taken, setting forth a description of such action, and, in the case of revolving loan obligations secured in whole or in part by a pledge of collections of an ad valorem tax, accompanied by a certificate executed by the county clerk or county clerks of the county or counties in which the issuing school district is located certifying that such tax has been or will be extended for collection and setting out the year in which such collection commenced or will commence. Upon delivery to the Board of such resolution and certificate (or certificates, as the case may be) the revolving loan obligations covered thereby shall be conclusively deemed to be valid, and the validity of such revolving loan obligations shall not thereafter be subject to challenge on any ground. The Board may prescribe the form of the resolution and certificates provided for in this subsection (e).

SECTION 8. All state agencies are hereby expressly authorized to execute and enter into agreements with the Board for leasing or renting of space in the Building when there is space therein over and above the requirements of the Department and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the

Board and the state agency involved to be appropriate and in the best interest of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor performing the functions exercised by the state agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 9. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the Board and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of the Board may be enforced by mandamus or other appropriate proceedings at law or in equity.

SECTION 10. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 11. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the fireman's relief and pension fund and the policeman's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, and bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 12. The Board is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the Expansion and to supervise and inspect such construction. In addition, the Board is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the powers, purposes and authorities conferred and set forth in this Act.

SECTION 13. (a) Unless refunded as hereinafter authorized, the 1969 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the pledged revenues, and nothing herein shall be construed as impairing their security as provided in the resolution of the Board securing the 1969 Bond.

(b) The Board is hereby authorized, in its discretion, to refund and discharge the outstanding 1969 Bonds, as hereinafter provided. If the Board determines so to proceed, the necessary additional principal amount of bonds to accomplish the refunding shall be issued and proceeds thereof shall be applied by the Board to the payment and

redemption (principal, premiums, if any, interest, and fees and expenses) of all of the outstanding 1969 Bonds. Pending surrender of the 1969 Bonds, the necessary moneys shall be deposited in trust in the bond fund established pursuant to the provisions of the resolution authorizing the 1969 Bonds (the "1969 bond fund"). The Board shall invest, or authorize the investment of, the moneys in the 1969 bond fund to the full extent feasible, as determined by the Board, in direct or fully guaranteed obligations of the United States of America. All moneys in the 1969 bond fund shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment and redemption of the 1969 Bonds. Upon deposit in the 1969 bond fund of the moneys provided for herein, the 1969 Bonds shall be deemed to be paid and discharged.

(c) The Board shall include necessary provisions in the authorizing resolution for the bonds issued under this Act, or in the trust indenture, for deposit of the proceeds of the bonds (other than amounts for interest or reserves which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to the provisions of subsection (b) of this Section) into a special Construction Fund (the "Construction Fund") which shall be a trust fund maintained in such depository as the Board shall designate. The moneys in the Construction Fund shall be used to carry out the powers, purposes and authorities of the Board specified in this Act. The Board shall include appropriate provisions in the authorizing resolution or trust indenture governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Board to be appropriate and as shall be specified in the authorizing resolution or trust indenture).

SECTION 14. There is hereby appropriated, to the Construction Fund, for the purpose of paying the costs of construction of the Expansion and other expenses incidental thereto the following:

(1) the proceeds of the bonds, as set forth herein, not to exceed the sum of \$ 1,200,000;

(2) any balance remaining in the 1969 bond fund, after payment and redemption of the 1969 Bonds, not to exceed the sum of . \$ 500,000; and

(3) any unobligated balance remaining in the FED — National Defense Education Fund, not to exceed the sum of \$ 34,906.66.

SECTION 15. Upon the refunding of the 1969 Bonds as authorized by Section 3 hereof, the following shall be repealed and of no further force and effect: (1) Act No. 443 of 1963; (2) Act No. 18 of the First Extraordinary Session of the Sixty-Sixth General Assembly of the State of Arkansas, approved February 15, 1968; (3) Section 13 (a) of Act No. 384 of 1953, as amended.

SECTION 16. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

SECTION 17. This Act shall not create any right of any character,

and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Board.

SECTION 18. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of the Act.

SECTION 19. All laws and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 20. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law, to the detriment of the public health and safety, and that only by the immediate operation of this Act can these conditions be bettered. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval.

6. ARKANSAS STATE DEPARTMENT OF HEALTH BUILDING EXPANSION ACT — ACTS 1977, No. 686, AS AMENDED BY ACTS 1997, No. 250.

SECTION 1. This Act may be referred to and cited as the “Arkansas State Department of Health Building Expansion Act.”

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

“Act No. 469” means Act No. 469 of 1965.

“Agency” or “state agency” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

“Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

“1966 Bonds” means the Arkansas State Department of Health Building Commission Revenue Bonds, dated December 1, 1966, authorized by and issued under Act No. 469.

“Building” means the State Department of Health Building constructed and financed under the provisions of Act No. 469, including the Expansion.

“Commission” means the Arkansas State Department of Health Building Commission, established by Act No. 469.

“Construct” means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory or technical nature by such method as

the Commission shall determine to be necessary or desirable to accomplish the power, purposes and authorities set forth in this Act and without regard to the provisions of other laws pertaining to the construction and acquisition of property by state agencies. The term "construct" also includes payment or provision for expenses incidental thereto.

"Division" means any division, bureau, section, office or officer of the Department of Health.

"Expansion" means any additions, extensions, or improvements to the Building and may include any necessary or appropriate remodeling and improvements to the present Building and its facilities, with appropriate equipment and furnishings, all as determined by the Commission.

"Fees" means the fees confirmed, ratified, fixed and imposed by this Act, as set forth in Section 6 of this Act.

"Fee revenues" means all revenues derived from the fees.

"Pledged revenues" means all revenues authorized by Section 9 of this Act to be pledged for the security and payment of the bonds, being fee revenues and gross revenues derived from the leasing or rental of space.

SECTION 3. In addition to the powers, purposes and authorities set forth elsewhere in this Act, the Arkansas State Department of Health Building Commission is hereby authorized and empowered to:

(a) Construct an Expansion to the State Department of Health Building, on a site or sites selected by the Commission. In this regard, the appropriate state agency in charge of the lands upon which a site may be selected is hereby authorized and directed to negotiate with the Commission and to make available to the Commission such lands as may be necessary for a site, including adequate parking area, at such location as will not unreasonably interfere with the needs of the particular agency or of other state agencies.

(b) Arrange for the housing of the various divisions of the Department of Health and such other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rentals and charges, if any, as the Commission may determine.

(c) Construct or cause to be constructed parking facilities to serve the Building, the Expansion and other agencies and the public having business therein.

(d) Obtain the necessary funds for accomplishing its powers, purposes and authorities.

(e) Purchase, lease or rent and receive bequests or donations of or otherwise acquire, and sell, trade, or barter, any property, (real, personal or mixed) and convert into money and/or other property any property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1966 Bonds.

(g) Establish accounts in one or more banks, and thereafter from

time to time make deposits in and withdrawals from such accounts.

(h) Contract and be contracted with.

(i) Apply for, receive, accept and use any moneys and property from the Government of the United States of America, any state agency, any state or governmental body or political subdivision, any public or private corporation or organization of any nature, or any individual.

(j) Invest and reinvest any of its moneys (in securities selected by the Commission).

(k) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers, purposes and authorities set forth in this Act and to carry out the intent of this Act.

SECTION 4. (a) In addition to the powers, purposes and authorities conferred by this Act, the powers conferred by and the provisions contained in Act No. 469 except as they may be inconsistent with any of the provisions of this Act, are hereby confirmed, continued, ratified and reenacted, including without limitation the provisions of Act No. 469 pertaining to organization of the Commission, and meetings of the Commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

(b) This Act shall constitute the sole authority necessary to accomplish the powers, purposes and authorities set forth herein. The powers, purposes and authorities set forth in this Act may be exercised by or on behalf of the Commission without necessity for the approval of any other agency of the State of Arkansas and without compliance with any other act or law pertaining to such powers, purposes or authorities.

SECTION 5. The Building, including after its completion the Expansion, shall house the Department of Health or such facilities and divisions thereof as the Department of Health shall determine. In addition, the Building and the Expansion may house such others as space and facilities will permit from time to time, as determined by the Commission.

SECTION 6. (a) The fees prescribed in Section 10 of Act 469 (as, in some cases, described in detail in the Vital Statistics Act of 1965, Act No. 471 of 1965, as amended) as now existing or as hereafter amended, are hereby confirmed, ratified, fixed and imposed.

(b) All fee revenues are hereby declared to be cash funds, and shall not be deposited in the Treasury, except as set forth in this Act, but shall be deposited in a bank or banks selected by the Commission. The fee revenues shall be collected and applied as in this Act provided until the principal of, premiums, if any, and interest on all bonds issued under this Act, with trustee's and paying agent's fees, shall be paid or adequate provision made for their payment; provided, however, particular fees may be varied as to amount or new fees substituted or added so long as there is no reduction in gross fee revenues that would have been collected had there been no such change, substitution or addition, and the term "fee revenues" includes the revenues derived from all such fees.

SECTION 7. (a) The Commission is hereby authorized and empow-

ered to issue bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any available funds, for financing the costs of constructing the Expansion, together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the bonds, the creation and maintenance of reserves to secure the payment of the bonds, if the Commission deems it necessary or desirable, and for providing for the payment of interest on the bonds, if necessary or desirable, until sufficient funds are available therefor out of pledged revenues.

(b) The bonds shall be authorized by resolution of the Commission. The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may contain such exchange provisions, may be in such form and denomination; may have such date or dates; may be stated to mature at such time or times; may bear interest payable at such times and at such rate or rates, provided that no bonds of any series may bear interest at a rate or rates exceeding 10% per annum; may be made payable at such places within or without the State of Arkansas; may be made subject to such terms of redemption in advance of maturity at such times and at such prices; and may contain such other terms and conditions, all as the Commission shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration of ownership as set forth above. The authorizing resolution may contain any terms, covenants and conditions that are deemed necessary or desirable by the Commission, including without limitation, those pertaining to the creation and maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the rights, duties and obligations of the Commission and of the holders and registered owners of the bonds, all as the Commission shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing the terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published in such publications within and/or without the State of Arkansas for such time or times, and information pertaining to the Act, the Commission and the bonds shall be prepared and distributed in such form and manner as to such prospective purchasers as the Commission shall determine to be best designed to obtain the most favorable bidding. The bonds may be sold at such price as the Commission may accept, but in no event shall any bid be accepted which results in an interest rate in excess of 10% per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate bid and deducting the amount of any premium and adding the amount of

any discount.

(d) Bonds outstanding hereunder shall not exceed \$6,000,000 in principal amount.

(e) Bonds issued hereunder shall be executed by the Chairman of the Commission and the Secretary of the Commission (by manual or facsimile signatures with at least one manual signature). The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each bond shall be sealed with the seal of the Commission.

SECTION 8. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No. 20 of the Constitution of the State of Arkansas) are pledged. The bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Commission shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the powers, purposes or authorities of this Act unless he shall have acted with a corrupt intent.

SECTION 9. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds issued under this Act shall be secured by a lien on and pledge of the fee revenues and the gross revenues derived from the leasing or renting to others of space in the Building (collectively the "pledged revenues") and such pledged revenues are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act. There is hereby created a fund designated "State Department of Health Building Expansion Revenue Bond Fund" (the "Bond Fund") to be maintained at such depository as shall be specified by the Commission, which fund shall be a trust fund, and after the issuance of any bonds hereunder moneys therein shall be applied solely for the payment of the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds at maturity and at redemption prior to maturity, except moneys that are withdrawn therefrom pursuant to the subsequent provisions hereof, all as shall be specified and subject to the terms and conditions set forth in the authorizing resolution or trust indenture. The pledged revenues shall not be deposited into the State Treasury, but, as and when received, shall be deposited into the Bond Fund. On March 1, June 1, September 1 and December 1 of each year, if not required for paying the principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds, or for making deposits to required reserves, there shall be released from the pledged revenues and

withdrawn from the Bond Fund and deposited, as a special revenue to the credit of the Public Health Fund in the State Treasury, that amount of the pledged revenues equaling the sum of the following:

(a) One-half of the revenues derived from the fee described in Section 10(a)(3) of Act No. 469;

(b) One-fourth of the revenues derived from the fee described in Section 10(a)(5) of Act No. 469;

(c) One-half of the revenues derived from the fee described in Section 10(a)(6) of Act No. 469;

(d) One-half of the revenues derived from the fee described in Section 10(a)(8) of Act No. 469;

(e) One-fourth of the revenues derived from the fee described in Section 10(a)(9) of Act No. 469.

Subject to any covenants any pledges in connection with any outstanding 1966 Bonds, the Commission may, if it so desires, use any of the pledged revenues in the Bond Fund prior to the issuance of any bonds hereunder for defraying the costs of accomplishing the powers, purposes and authorities of the Commission under this Act. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund. The Commission is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Commission), and all income derived from such investments shall be and become a part of the Bond Fund.

SECTION 10. All agencies are hereby expressly authorized to execute and enter into agreements with the Commission for the leasing or renting of space in the Building when there is space therein over and above the requirements of the Department of Health and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the agency involved to be appropriate and in the best interest of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency performing the functions exercised by the agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 11. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the Commission and the holders and registered owners of the bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof, and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other

appropriate proceedings at law or in equity.

SECTION 12. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 13. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authorities, respectively, of the fireman's relief and pension fund and the policeman's pension and relief fund of any such municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this Act, shall be eligible to secure the deposit of public funds.

SECTION 14. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the construction of the Expansion and to supervise and inspect such construction. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the powers, purposes and authorities conferred and set forth in this Act.

SECTION 15. (a) Unless refunded or defeased as hereinafter authorized, the 1966 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the fee revenues, and nothing herein shall be construed as impairing their security as authorized by Act No. 469 and as provided in the resolution of the Commission securing the 1966 Bonds.

(b) Subject to the above, the Commission is hereby authorized, in its discretion, to refund or defease the outstanding 1966 Bonds, as hereinafter provided, in which event the moneys, if any, in the construction fund established pursuant to the resolution authorizing the 1966 Bonds shall be transferred to the Construction Fund established pursuant to the provisions of this Act and the moneys in the bond fund established pursuant to the provisions of the resolution authorizing the 1966 Bonds (the "1966 Bond Fund") shall be transferred to the Bond Fund established pursuant to the provisions of this Act. If the Commission determines so to proceed, the necessary additional principal amount of bonds to accomplish the refunding or defeasing shall be issued and proceeds thereof shall be applied by the Commission to the payment (principal, premiums, if any, interest and fees and expenses) of all of the outstanding 1966 Bonds at maturity or earlier redemption (as the Commission shall determine). The necessary moneys shall be deposited in trust in the bond fund established pursuant to the provisions of the resolution authorizing the 1966 Bonds. The Commission shall invest, or authorize the investment of, the moneys in the 1966 Bond Fund to the full extent feasible, as determined by the Commission, in direct or fully guaranteed obligations of the United States of America. All moneys in

the 1966 Bond Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment of the 1966 Bonds. Upon deposit in the 1966 Bond Fund of the moneys provided for herein, the 1966 Bonds shall be deemed to be paid, defeased and retired.

(c) The Commission shall include necessary provisions in the authorizing resolution for the bonds issued under this Act, or in the trust indenture, for deposit of the proceeds of the bonds (other than accrued interest which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to the provisions of subsection (b) of this Section 15) into a special Construction Fund (the "Construction Fund") which shall be a trust fund maintained in such depository as the Commission shall designate. The moneys in the Construction Fund shall be used to carry out the powers, purposes and authorities of the Commission specified in this Act. The Commission shall include appropriate provisions in the resolution or trust indenture authorizing and securing the bonds governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Commission to be appropriate and as shall be specified in the authorizing resolution of trust indenture).

SECTION 16. In the event of the refunding or defeasing of the 1966 Bonds as authorized by Section 15 hereof, Sections 11, 13 and 20 of Act No. 469 shall be repealed and of no further force and effect.

SECTION 17. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 18. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Commission.

SECTION 19. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of the Act.

SECTION 20. All laws and portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 21. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department of Health and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law and required for the proper care of the public health of the inhabitants of the State, to the detriment of the public health and safety, and that only by the immediate operation of this Act can these conditions be bettered. Therefore, an emergency is hereby declared to

exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval.

7. ARKANSAS REVENUE DEPARTMENT BUILDING EXPANSION ACTS — ACTS 1977,
No. 749, AS AMENDED BY ACTS 1997, No. 250.

SECTION 1. This Act may be referred to and cited as the “Arkansas Revenue Department Building Expansion Act.”

SECTION 2. Whenever used in this Act, unless a different meaning clearly appears from the context:

(a) “Act No. 38” means Act No. 38 of the First Extraordinary Session of the Sixty-Fourth General Assembly of the State of Arkansas, approved September 8, 1961, as amended.

(b) “Agency” or “Agencies” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

(c) “Bonds” means bonds and any series of bonds authorized by and issued pursuant to the provisions of this Act.

(d) “1965 Bonds” means the Arkansas Revenue Department Building Commission Revenue Bonds, dated October 1, 1965, authorized by and issued under Act No. 38.

(e) “Building” means the Revenue Department Building constructed and financed under the provisions of Act No. 38.

(f) “Commission” means the Arkansas Revenue Department Building Commission, established by Act No. 38.

(g) “Construct” means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the Expansion, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the Commission shall determine to be necessary or desirable to accomplish the authorities, powers and purposes set forth in this Act. This Act shall be the sole authority needed and it shall not be necessary to comply with other laws pertaining to the acquiring, constructing and equipping of public buildings.

(h) “Department” means the Department of Finance and Administration of the State of Arkansas, or any successor or agencies.

(i) “Divisions” means any division, bureau, section, or office of the Department.

(j) “Expansion” means additions, extensions, or improvements to the Building, appropriate remodeling of and improvements to the present Building, and appropriate equipment and furnishings, all as determined by the Commission.

(k) “Fee Revenues” means all revenues derived from the Fees.

(l) “Fees” means the fees confirmed, fixed, ratified, and imposed by this Act.

(m) “Pledged Revenues” means all revenues authorized by Section 10 of this Act to be pledged for the security and payment of the Bonds,

being Fee Revenues and gross revenues derived from leasing or rental of space.

SECTION 3. In addition to authorities, powers and purposes set forth in this Act, the Arkansas Revenue Department Building Commission is hereby authorized and empowered to:

(a) Construct the Expansion.

(b) Arrange for the housing of various Divisions of the Department and other Agencies as space and facilities may permit from time to time and with reference to other Agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rents and charges, if any, as the Commission may determine.

(c) Construct parking facilities.

(d) Obtain the necessary funds for accomplishing its authorities, powers and purposes.

(e) Purchase, lease or rent and receive bequests or donations of, or otherwise acquire and sell, trade or barter, any property (real, personal or mixed) and convert into money and/or other property and property not needed or which cannot be used in its then current form.

(f) Refund and/or pay and discharge, or provide therefor, the outstanding 1965 Bonds.

(g) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(h) Contract and be contracted with.

(i) Apply for, receive, accept and use any moneys and property from the Government of the United States or of any state, political subdivision or agency or from any public or private corporation, agency or organization of any nature, or from any individual.

(j) Invest and reinvest any of its moneys (in securities selected by the Commission).

(k) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities, powers and purposes conferred by this Act and to carry out the intent of this Act.

SECTION 4. (a) In addition to the authorities, powers and purposes conferred by this Act, the authorities, powers and purposes conferred by, and the provisions of Act No. 38, except as they may be inconsistent with any of the provisions of this Act, are hereby confirmed, ratified, continued and reenacted, including, without limitation, the provisions of Act No. 38 pertaining to organization of the Commission, and meetings of the Commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code § 25-16-901 et seq.

(b) This Act shall constitute the sole authority necessary for the accomplishment of the authorities, powers and purposes of this Act. The authorities, powers and purposes of this Act may be exercised by or on behalf of the Commission without necessity of approval by any other branch, department, agency, or officer of the State of Arkansas, and without compliance with any other act or law pertaining to such authorities, powers and purposes.

SECTION 5. The Building and the Expansion, after its completion, shall house all or such part of the Department as the Commission shall determine. In addition, the Building and Expansion may house such other Agencies as space and facilities will permit from time to time, as determined by the Commission.

SECTION 6. (a) The following fees and charges fixed and imposed by Section 83 of Act No. 142 of 1949, as amended by Act No. 493 of 1965 (and referred to in Section 10 of this Act) are hereby confirmed, ratified, fixed and imposed:

- (1) For each certificate of title, \$1.00
- (2) For each duplicate certificate of title, \$1.00
- (3) For noting each lien, \$0.50
- (4) For transfer of registration, \$1.00
- (5) For duplicate or substitute registration certificate, \$1.00
- (6) For duplicate or substitute registration plate, \$1.00

(b) Fee Revenues are hereby declared to be cash funds, and shall not be deposited in the Treasury, but shall be deposited in a bank or banks, as determined by the Commission. The Fee Revenues shall be collected and applied as in the Act provided until the principal of, premiums, if any, and interest on all Bonds issued under this Act shall be paid or the required provision made for their payment; provided, however, particular Fees may be varied as to amount or new Fees substituted or added so long as there is no reduction in gross Fee Revenues that would have been collected had there been no such change, substitution or addition, and the term "Fee Revenues" includes the revenues derived from all such Fees.

SECTION 7. (a) There is hereby created a trust fund which shall be designated "Revenue Department Building Expansion Fund" (the "Building Fund") which shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. Commencing on the date of the issuance of Bonds under this Act, there shall be deposited into the Building Fund all moneys received by the Commission from any other source whatever, including, without limitation, Fee Revenues and revenues derived from leasing or renting of space in the Building.

(b) All moneys in the Building Fund shall be used solely, and in the order of priority, as follows:

(1) Beginning on the first day of the month immediately following the month within which Bonds are issued under this Act, and continuing on the first day of each month thereafter until the principal of, premiums, if any, and interest on all Bonds issued under this Act are paid, or the required provision made for their payment, there shall be transferred from the Building Fund and deposited in a trust fund which is hereby created and designated "Revenue Department Building Expansion Bond Fund" (the "Bond Fund") a sum equal to at least one-sixth ($\frac{1}{6}$) of the next installment of interest on and one-twelfth ($\frac{1}{12}$) of the next installment of principal (or Sinking Fund Payment in the case of term Bonds) of all outstanding Bonds and the amounts necessary to provide

for trustee's and paying agent's fees, plus such additional amounts, if any, as shall be required to insure that on the next interest paying date and the next principal (or Sinking Fund) paying date there will be sufficient funds in the Bond Fund to pay principal, premiums, if any, and interest then due and plus such additional amounts, if any, as shall be necessary to establish over such period of time and maintain a debt service reserve in the Bond Fund (if the Commission deems it desirable to provide for such reserve) in such amount as the Commission may determine; provided, however, the required deposits for principal need not start until twelve (12) months prior to the first principal (or Sinking Fund) paying date. The Bond Fund shall be maintained by the Commission in such depository bank or banks as may from time to time be designated by the Commission. The moneys in the Bond Fund shall be used for no other purpose than to pay the principal of, premiums, if any, and interest on and trustee's and paying agent's fees in connection with, all outstanding Bonds issued under this Act, at maturity or at redemption prior to maturity.

(2) If and so long as all deposits required by Section 7(b)(1) are properly made, and are fully current, then commencing on the first business day of the month during which deposits are required to be made into the Bond Fund pursuant to the provisions of Section 7(b)(1) and continuing on the first business day of each month thereafter as long as deposits into the Bond Fund are required to be made by the provisions hereof, there shall be withdrawn from the Building Fund and deposited in the State Treasury (and there credited to the Constitutional and Fiscal Agencies Fund) that portion of the moneys in the Building Fund not required to be deposited into the Bond Fund by the provisions of Section 7(b)(1) of this Act.

(c) After the principal of premiums, if any, and interest on all Bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund and in the Bond Fund and all moneys received from the Fees shall be deposited in the State Treasury, as a special revenue, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 8. (a) The Commission is hereby authorized and empowered to issue Bonds, at one time or in series from time to time, and to use the proceeds thereof, together with any other available funds, for defraying the costs of Constructing the Expansion together with all expenses incidental to and reasonably necessary in connection therewith, the expenses of the issuance of the Bonds, the creation of all or any part of a debt service reserve, if the Commission deems such a reserve desirable, and for providing for the payment of interest on the Bonds during the Construction and for up to six (6) months thereafter, if the Commission deems such desirable.

(b) The Bonds shall be authorized by resolution or resolutions of the Commission. The Bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only, or may be registrable as to both principal and interest; may be in such form and denomination; may

have such date or dates; may mature at such time or times; may bear interest payable at such times and at such rate or rates, provided that no Bonds may bear interest at a rate or rates exceeding ten percent (10%) per annum; may be made payable at such place or places, within or without the State of Arkansas; may be subject to redemption prior to maturity at such times, in such manner and at such prices; may contain such exchange privileges, and may contain such other terms and conditions; all as the Commission shall determine. Subject to provisions as to registration the Bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas. The authorizing resolution may contain any terms, covenants and conditions that are deemed desirable by the Commission, including, without limitation, those pertaining to the creation and maintenance of funds and reserves, the nature and extent of the security, the issuance of additional series of bonds (and the priority of lien and pledge in that event) and the rights, duties and obligations of the Commission and of the holders and registered owners of the bonds, all as the Commission shall determine. The authorizing resolution may provide for the execution of a trust indenture, with a bank or trust company located within or without the State of Arkansas, containing terms, covenants and conditions authorized by this Act.

(c) Bonds issued hereunder shall be sold at public sale on sealed bids. Notice of the sale shall be published in such publications, within or without the State of Arkansas, for such time or times, and information pertaining to the Act, the Commission and the Bonds and their security, shall be prepared and distributed in such form and manner and to such prospective purchasers as the Commission shall determine to be best designed to get the most favorable bidding. The Bonds may be sold at such price as the Commission may determine to accept, but in no event shall any bid be accepted which results in a net interest cost in excess of ten percent (10%) per annum (treating the amount of any discount as interest). The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, determined by computing the aggregate interest cost at the rate or rates bid and deducting the amount of any premium and adding the amount of any discount.

(d) Bonds issued hereunder shall be executed by the Chairman and Secretary (manual or facsimile with one manual required) of the Commission. The coupons attached to the Bonds shall be executed by the facsimile signature of the Chairman of the Commission. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such Bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. Each Bond shall be sealed with the seal of the Commission.

SECTION 9. It shall be plainly stated on the face of each Bond that it has been issued under the provisions of this Act. Bonds issued hereunder shall be obligations only of the Commission, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (as used in Amendment No.

20 of the Constitution of Arkansas) are pledged, and the Bonds shall not be secured by a mortgage or lien on any land, building or property belonging to the State of Arkansas. No member of the Commission shall be personally liable on the Bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the authorities, powers and purposes of this Act unless he shall have acted with a corrupt intent.

SECTION 10. The principal of premiums, if any, interest on, and trustee's and paying agent's fees in connection with all Bonds issued under this Act shall be secured solely by a lien on and pledge of the Fee Revenues and the gross revenues derived from the leasing or renting to others of space in the Building (collectively the "Pledged Revenues"), and such Pledged Revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this Act. The Pledged Revenues shall not be deposited into the State Treasury, but as and when received, shall be deposited as set forth in and authorized by this Act.

Subject to the condition that there is no violation of the pledge or any covenant of the Commission pertaining to the Outstanding 1965 Bonds, the Commission may use any of the Pledged Revenues prior to the issuance of any Bonds hereunder for defraying costs of accomplishing the authorities, powers and purposes of the Commission under this Act. The principal of premiums, if any, interest on, and trustee's and paying agent's fees in connection with the bonds shall be payable solely from the moneys in the Bond Fund and the moneys required by this Act to be deposited into the Bond Fund.

The Commission is directed to insert appropriate provisions in the authorizing resolution or trust indenture for the investing and reinvesting of moneys in the Bond Fund (in securities selected by the Commission), and all income derived from such investments shall be and become a part of the Bond Fund.

SECTION 11. All Agencies are hereby expressly authorized to execute and enter into agreement with the Commission for the leasing or renting of space in the Building when there is space therein over and above the requirements of the Department and the Divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the Commission and the Agency involved to be appropriate and in the best interests of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor Agency performing the functions exercised by the Agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

SECTION 12. Each authorizing resolution or trust indenture shall, together with this Act, constitute a contract by and between the

Commission and the holders and registered owners of the Bonds issued hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof and the covenants, agreements and obligations of the Commission may be enforced by mandamus or other appropriate proceedings of law or in equity.

SECTION 13. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and this exemption shall include income, inheritance and estate taxes.

SECTION 14. Any municipality, or any board, commission or other governing authority duly established by ordinance of any municipality, or the governing authority, respectively, of the Fireman's Relief and Pension Fund and the Policeman's Pension and Relief Fund of any municipality, or the governing authority of any retirement system created by the General Assembly of the State of Arkansas, or any Agency, may, in its discretion, invest any of its funds not immediately needed for its purposes in Bonds issued under the provisions of this Act, and Bonds issued under the provisions of this Act shall be eligible to secure the deposit of public funds.

SECTION 15. The Commission is hereby authorized to employ an architect to prepare plans, specifications and estimates of cost for the Construction of the Expansion and to supervise and inspect such Construction. In addition, the Commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the authorities, powers and purposes conferred and imposed by this Act.

SECTION 16. (a) Unless refunded or defeased as hereafter authorized, the 1965 Bonds, so long as they are outstanding, shall be secured by a prior lien on and pledge of the Fee Revenues, and nothing herein shall be construed as impairing their security as authorized by Act No. 38 and as provided in the Resolution of the Commission securing the 1965 Bonds. However, subject to the above, all moneys in the Construction Fund established and maintained by the Commission pursuant to the Resolution securing the 1965 Bonds shall be transferred to the Construction Fund into which the proceeds of the Bonds issued hereunder are deposited and used for the Construction of the Expansion.

(b) The Commission is hereby authorized, in its discretion, to refund or defease the outstanding 1965 Bonds, as hereafter provided, in which event the moneys in the Construction Fund established by the Resolution securing the 1965 Bonds shall be transferred to the Construction Fund established pursuant to the provisions of this Act and the moneys in the Bond Fund established pursuant to the provisions of the Resolution authorizing the 1965 Bonds shall be transferred to the Bond Fund established pursuant to the provisions of this Act. If the Commission determines to so proceed, the necessary additional principal amount of Bonds to accomplish the refunding or defeasing shall be

issued and proceeds thereof shall be applied by the Commission to the payment (principal, premiums, if any, interest and fees and expenses) of all of the outstanding 1965 Bonds at maturity or earlier redemption (as the Commission shall determine). The necessary moneys shall be deposited in trust in the Bond Fund established pursuant to the provisions of the Resolution authorizing the 1965 Bonds. The Commission shall invest, or authorize the investment of, the moneys in the 1965 Bond Fund to the full extent feasible, as determined by the Commission, in direct or fully guaranteed obligations of the United States of America. All moneys in the 1965 Bond Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be used for no other purpose than the payment of the principal, premiums, if any, interest and fees and expenses incurred in connection with the payment of the 1965 Bonds. Upon deposit in the 1965 Bond Fund of the moneys provided for herein, the 1965 Bonds shall be deemed to be paid, defeased and retired.

(c) The Commission shall include necessary provisions in the Resolution securing the Bonds issued under this Act, or in the Trust Indenture, for deposit of the proceeds of the Bonds (other than accrued interest which shall be deposited in the Bond Fund and the amount, if any, to be deposited pursuant to provisions of Subsection (b) of this Section 16) into a special Construction Fund (the "Construction Fund") which shall be a trust fund maintained in such depository as the Commission shall designate. The moneys in the Construction Fund shall be used to carry out the authorities, powers and purposes of the Commission specified in this Act. The Commission shall include appropriate provisions in the Resolution or Trust Indenture authorizing and securing the Bonds governing the securing of and the investing and reinvesting of moneys in the Construction Fund (in such securities as shall be determined by the Commission to be appropriate and as shall be specified in the authorizing Resolution or Trust Indenture).

SECTION 17. In the event of the refunding or defeasing of the 1965 Bonds as authorized by Section 16 hereof, Sections 10, 11, 12, 13 and 15 of Act No. 38 shall be repealed and of no further force and effect.

SECTION 18. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 19. This Act shall not create any right of any character, and no right of any character shall arise under or pursuant to it, unless and until the bonds authorized by this Act, or the initial series, shall have been sold and delivered by the Commission.

SECTION 20. The provisions of this Act are hereby declared to be severable. If any section, paragraph, sentence or clause of this Act shall be held unconstitutional or invalid, the invalidity of such section, paragraph, sentence or clause shall not affect the validity of the remainder of this Act.

SECTION 21. All laws and portions thereof in conflict herewith are

hereby repealed to the extent of such conflict.

SECTION 22. It is hereby found and declared by the General Assembly that the Building is inadequate to house the Department and the divisions thereof, with the result that it is impossible properly and efficiently to carry out functions and duties required by law and required for the proper administration of the State Government, to the detriment of the public health and safety and that only by the immediate operation of this Act can these conditions be alleviated. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall take effect upon its passage and approval. APPROVED: March 24, 1977.

8. REGULATORY AGENCIES BUILDING — ACTS 1977, No. 820.

SECTION 1. The Arkansas State Building Services, created by Act No. 716 of 1975 and hereinafter referred to as "State Building Services," is hereby authorized and empowered to:

(a) Construct and equip a Regulatory Agencies Building, upon the lands acquired in the name of the State of Arkansas by the Arkansas Revenue Department Building Commission pursuant to the provisions of Act No. 151 of 1965 and transferred to the State Building Services under the provisions of Section 6(b) of Act No. 716 of 1975.

(b) Arrange for the housing therein of such boards, commissions, authorities, agencies, departments, and offices of the State, or the component parts thereof (hereinafter referred to as "state agencies"), as the State Building Services shall deem necessary or desirable in the exercise of its authority and the discharge of its responsibilities under the provisions of Act No. 716 of 1975 and this Act.

(c) Construct, cause to be constructed, or make any portion of the lands described in subsection (a) of this Section 1 available for the construction of parking facilities to serve the Regulatory Agencies Building, and to serve other state officers and employees and the public having business with the State. As used in this Act, the term "Regulatory Agencies Building" shall include the parking facilities authorized by this subsection (c).

(d) Obtain the necessary funds for the financing of the objects specified in this Section 1, from one or more of the following sources:

(1) Proceeds of revenue bonds as hereinafter in this Act specified.

(2) Funds appropriated by the General Assembly to State Building Services for the construction and equipment of the Regulatory Agencies Building; provided that the particular state agencies housed or to be housed therein shall not have the right to select persons to perform architectural or engineering or construction services, notwithstanding the provisions of Section 7(b) of Act No. 716 of 1975.

(3) Funds from any other source authorized by Act No. 716 of 1975 or other law, including, without limitation, funds appropriated by the General Assembly to State Building Services not designated to be spent

for a particular public building or capital improvement for a particular state agency.

(e) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities conferred by, and to carry out the intent and purposes of, this Act.

SECTION 2. (a) The State Building Services is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, in the total aggregate principal amount of \$4,000,000 and to use the proceeds thereof for defraying the costs of accomplishing all or any part of the authorities and powers set forth in Section 1 of this Act, paying all incidental expenses in connection therewith, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the State Building Services deems such desirable, and making provision for the payment of interest on the bonds during and for up to one year after construction, if the State Building Services deems such desirable.

(b) The bonds shall be authorized by resolution of the State Building Services Council ("authorizing resolution"). The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, provided that no bond may bear interest at a rate exceeding ten percent (10%) per annum, may be made payable at such place or places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the State Building Services shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth above. The authorizing resolution may contain any other terms, covenants and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties and obligations of the State Building Services and of the holders and registered owners of the bonds.

The authorizing resolution may provide for the execution by the State Building Services with a bank or trust company within or without the State of Arkansas of a trust indenture. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and

extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any funds during periods not needed for authorized purposes, and the rights, duties and obligations of the State Building Services and of the holders and registered owners of the bonds.

(c) The bonds may be sold to any one or more retirement systems now existing or hereafter created by the General Assembly of the State of Arkansas, or may be sold at public sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published once in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, at least twenty (20) days prior to the date of sale and may be published in such other publications as the State Building Services may determine. In either case the bonds may be sold at such price as the State Building Services may accept including sale at a discount, but in no event shall any bid be accepted which results in a net interest cost (determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting any premium or adding the amount of any discount) in excess of the interest cost computed at par for bonds bearing interest at the rate of ten percent (10%) per annum. The award at any public sale, if made, shall be to the bidder whose bid results in the lowest net interest cost.

(d) The bonds shall be executed by the manual or facsimile signatures of the Chairman and Secretary of the State Building Services Council, provided that one of such signatures must be manual. The coupons attached to the bonds shall be executed by the facsimile signature of the Chairman of the Council. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes. The State Building Services shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the State Building Services.

SECTION 3. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act, that the bonds shall be obligations only of the State Building Services, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged, and that they are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas. No member of the State Building Services Council shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this Act unless he shall have acted with a corrupt intent.

(b) The principal of, premiums, if any, interest on, and trustee's and

paying agent's fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the revenues derived from the operation of the Regulatory Agency Building (including, without limitation, lease rentals derived from the leasing of space in the Regulatory Agencies Building to the state agencies housed in the Regulatory Agencies Building). The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provision for the use of surplus revenues, if any, for other lawful purposes.

(c) The State Building Services shall undertake the necessary investigation and shall make a determination of state agencies which can be housed in the Regulatory Agencies Building and the State Agency Revenues (as hereinafter defined) of each such agency. State Agency Revenues are hereby defined to be those revenues received by each such agency (directly or by way of appropriation) from sources other than the proceeds of taxes as the term "taxes" is ordinarily used. State Building Services and each state agency so found to have State Agency Revenues are hereby authorized to enter into longterm lease agreements (which may have a term of years no less than the period covered by the maturity schedule of the longest maturing outstanding bonds) for space in the Regulatory Agencies Building. In each such agreement, the state agency's commitment to make rental payments for such space shall be payable solely from its State Agency Revenues. State Agency Revenues, to the extent of such rental commitments, shall not be paid into the State Treasury and shall not be subject to legislative appropriation but shall be transferred by each such state agency directly to State Building Services in discharge of that state agency's obligations under its lease agreement. All such State Agency Revenues (to the extent necessary to discharge all commitments of state agencies under such lease agreements) are hereby declared to be cash funds restricted in their use and dedicated and to be used solely as provided in this Act. So long as any bonds authorized by this Act are issued and outstanding, State Building Services shall be obligated to select state agencies and enter into such long-term lease agreements, in accordance with its determinations made in accordance with the above provisions, which provide for aggregate rentals not less than the total amount necessary to pay when due the principal of, premiums, if any, interest on, trustee's and paying agent's fees in connection with, and any other fees and expenses required to discharge covenants and obligations in the authorizing resolution or trust indenture securing, all outstanding bonds issued hereunder. Different state agencies may be housed from time to time and lease agreements may be altered, or one agency or lease agreement substituted for another, so long as the aggregate of rentals called for by all outstanding lease agreements with state agencies selected pursuant to provisions hereof at all times while bonds are outstanding hereunder shall be no less than the amount necessary to pay when due the principal of, premiums, if any, interest on, trustee's and paying agent's fees in connection with, and any other fees and expenses required to

discharge covenants and obligations in the authorizing resolution or trust indenture securing, all outstanding bonds issued hereunder.

SECTION 4. (a) Any authorizing resolution and trust indenture shall, together with this Act, constitute a contract between the State Building Services and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements and obligations of the State Building Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

(1) that it will continuously operate the Regulatory Agencies Building as a revenue-producing undertaking, including the maintenance of occupancy and use of facilities and space so as to avoid any impairment of the security for the bonds; and

(2) that it will always charge, impose and collect sufficient revenues (including, without limitation, rentals) to meet, as due, all debt service requirements, maintain reserves at proper levels and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and funds.

SECTION 5. All moneys received by the State Building Services from the Regulatory Agencies Building (including moneys from leasing or renting of space or facilities therein) are hereby specifically declared to be cash funds, restricted in their use and dedicated and to be used solely as provided in this Act. Such moneys shall not be deposited in the State Treasury and shall not be subject to legislative appropriation but shall be deposited by the State Building Services, as and when received, in such bank or banks as the State Building Services may from time to time select, and secured, invested and disbursed as provided in this Act.

SECTION 6. Bonds issued under the provisions of this Act, and the interest thereon, shall be exempt from all state, county and municipal taxes, except property taxes, and the exemption shall include income, inheritance and estate taxes.

SECTION 7. The Board of Trustees of any retirement system now existing or hereafter created by the General Assembly of the State of Arkansas may, in its discretion, invest its funds in bonds issued under this Act.

SECTION 8. The State Building Services is hereby authorized to employ architects to prepare plans, specifications and estimates of cost for the construction of the Regulatory Agencies Building and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications prepared by the architect, it shall proceed to advertise for bids and contract for the construction of the Regulatory Agencies Building in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage

and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this Act.

SECTION 9. The State Building Services shall include necessary provisions in the authorizing resolution or trust indenture to require the deposit of the proceeds of each bond issue (except amounts for interest or reserves, which may be deposited in the Bond Fund) into a special Construction Fund ("Construction Fund") which shall be a trust fund in such depository as the State Building Services shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation, and all moneys in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested in securities specified by the State Building Services. The moneys in the Construction Fund shall be used solely for the purposes set forth in Section 1 and Section 2(a) of this Act.

SECTION 10. Bonds may be issued for the purpose of refunding any bonds issued under this Act. Refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or authorized investments for the retirement of the bonds being refunded, as shall be specified by the State Building Services in the authorizing resolution or trust indenture securing the refunding bonds and subject to compliance with the provisions of the authorizing resolution or trust indentures securing the bonds being refunded. The resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority of lien on revenues pledged for their payment as was enjoyed by the bonds refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this Act pertaining to the sale and security of bonds.

SECTION 11. This Act shall not create any right in any bondholder for bonds issued pursuant to this act, and no right for such bondholder shall arise under it, until bonds authorized by this Act (or the initial issue or series) shall have been sold and delivered by the State Building Services.

SECTION 12. The State Building Services shall be responsible for the maintenance, operation, and repair of the Regulatory Agencies Building, and, subject to the provisions of any authorizing resolution or trust indenture securing outstanding bonds, all or any part of the costs of such maintenance, operation and repair may be paid from revenues derived from the Regulatory Agencies Building (including, without limitation, rentals).

SECTION 13. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods and things.

SECTION 14. The provisions of this Act are hereby declared to be severable. If any provision of this Act, shall be held invalid or inapplicable to any state agency, person, firm or circumstances, such invalidity or inapplicability shall not affect the validity or applicability of the remainder of this Act.

SECTION 15. This Act shall be complete and sole authority for the accomplishment of the purposes hereof. To the extent that there is a conflict between the provisions of this Act and Act No. 716 of 1975, the provisions of this Act shall govern. All laws and parts of laws in conflict herewith, except Act No. 716 of 1975, are hereby repealed to the extent of such conflict.

SECTION 16. The General Assembly hereby finds and declares that there is an urgent need to construct and equip a building to meet the space and facilities requirements of state agencies and that this Act is immediately necessary for the accomplishment of such purpose. Therefore, an emergency is declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be effective from and after its passage and approval. APPROVED: March 28, 1977.

9. REGULATORY AGENCIES BUILDING — ACTS 1979, No. 1102.

SECTION 1. The State Building Services is hereby authorized and directed to construct and equip a State Regulatory Agencies Building to be located on the State Capitol Grounds at a site to be designated by the State Building Services Council, in the manner as authorized in Act 820 of 1977, and in this Act. The General Assembly hereby determines that the construction of such State Regulatory Agencies Building is in the public interest and is necessary to make the services of such Regulatory Agencies more accessible and convenient to the public, and that the implementation of this Act shall proceed without undue delay.

SECTION 2. (a) For the purpose of enabling the Arkansas State Building Services, created by Act 716 of 1975, as amended, to construct a regulatory agencies building as contemplated in Act 820 of 1977, the Chief Fiscal Officer of the State in cooperation with State Building Services, shall conduct a survey of the various occupational, business, and professional licensing boards as enumerated in Title 71 and Title 72 of the Arkansas Statutes, and shall:

(1) determine the adequacy of the buildings and facilities now used to house said agencies;

(2) evaluate the access of said agencies and their books, records, and administrative offices and services with respect to serving the needs and conveniences of the public.

(3) shall inquire of each of such occupational, business, and professional licensing board with respect to the estimated space requirements needed for the efficient operation of their boards and staffs for at least the next two (2) decades, and

(4) determine the fund balances or reserves available for support of each of said boards and commissions which are not required in their

day-to-day operation but could be devoted to defray a portion or all of the cost of constructing and equipping the space to be assigned to said boards and commissions in a State Regulatory Agencies Building, to be constructed by the State Building Services as authorized in Act 820 of 1977.

(b) Upon completion of such study, if the Chief Fiscal Officer of the State and State Building Services shall determine it to be in the better interest and convenience of service to the public of this State, and for the efficient operation of the respective boards and commissions and their staffs, to be housed in a regulatory agencies building to be located on the State Capitol Grounds, and further determines that with the funds available to the several boards and commissions and their staffs, to be housed in a regulatory agencies building to be located on the State Capitol Grounds, and further determines that with the funds available to the several boards and commissions, the amount of surplus or reserve funds that could be allocated by said boards toward the cost of constructing and equipping said building, together with the proceeds of revenue bonds to be issued by State Building Services, if any, as authorized in said Act 820 of 1977, would be adequate to construct and build said State Regulatory Agencies Building, he shall designate the boards and commissions and their staffs to be housed in the State Regulatory Agencies Building and shall, after receiving the advice of the Arkansas Legislative Council, recommend to the State Building Services the amount of space to be constructed for their respective uses. Upon receipt of the report from the Chief Fiscal Officer of the State, the State Building Services shall estimate the cost of constructing and equipping said State Agencies Regulatory Agencies Building, and shall apportion to each board and commission the amount of the cost thereof to be paid by each such board and commission by fund transfers as authorized hereinafter, or the amount of their allocated costs to be paid from the proceeds derived from the sale of revenue bonds, and the amount of annual rental payments that would be required to meet their pro rata portion of the debt service requirements of principal and interest and other costs incurred in connection with said bond issue.

(c) If any occupational, business, or professional licensing board is aggrieved by the proposed action of the State Building Services, they may appeal therefrom within thirty (30) days from the date of receipt of the aforementioned certification from the State Building Services, in writing to the Governor, who shall hold a hearing thereon within thirty (30) days and either approve the action proposed by the State Building Services, reject the same, or modify such action in such manner as the Governor deems reasonable and necessary.

(d) Each occupational and professional licensing board shall transfer or pay to the State Building Services from funds belonging to said board or commission, the amount of monies as certified by the Chief Fiscal Officer of the State to the State Building Services as being available from such board or commission, for payment toward the cost of constructing their allocated space in the proposed building. Such

transfer shall be made within such time as requested by State Building Services.

The monies received by the State Building Services from the respective occupational, business, and professional licensing boards to be used in total or partial payment of the cost of constructing a State Regulatory Agencies Building to house their respective agencies shall be set aside in a State Regulatory Agencies Building Fund Account to be used together with monies derived from the sale of Revenue Bonds, if any, as authorized by Act 820 of 1977, solely and exclusively for constructing and equipping a State Regulatory Agencies Building in the manner proposed by the State Building Services.

The Arkansas Legislative Council shall be advised monthly by State Building Services as to the progress of constructing this building.

SECTION 3. APPROPRIATION. There is hereby appropriated, to be payable from bond proceeds and fund balances received from regulatory agencies under the provisions of this Act, for constructing, equipping, debt service requirements, and associated costs of providing a State Regulatory Agencies Building, to the State Building Services, the sum of ... \$4,000,000.00.

SECTION 4. EMERGENCY. It is hereby found and determined by the Seventy-Second General Assembly that many regulatory agencies are located in various places in the State and within the City of Little Rock; that this situation has created confusion and frustration in the minds of the public when they wish to conduct business with any of these agencies; that many of these agencies have part-time staffs and much of their work could be done by a central staff; and that by locating these agencies in a central location both the public convenience and the efficient use of public funds could be better served. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. APPROVED: April 19, 1979.

10. OIL AND GAS COMMISSION BUILDING — ACTS 1985, No. 270.

SECTION 1. DEFINITIONS. As used herein, the following words and phrases shall, unless the context herein clearly indicates otherwise, mean:

(a) "Commission" shall mean the "Oil and Gas Commission" established by Act 105 of 1939, as amended.

(b) "Director" shall mean the Director of Production and Conservation of the Oil and Gas Commission, who also serves as ex officio Secretary of the Commission.

(c) "Chief Fiscal Officer of the State" shall mean the Director of the Department of Finance and Administration serving in his capacity as the Chief Fiscal Officer of the State, as authorized by law.

(d) "State Building Services" shall mean the State Building Services as established by Act 716 of 1975, as amended.

(e) "Fee revenues" or "fee revenues of the Commission" shall mean monies derived by the Oil and Gas Commission from assessments imposed by the Commission against each barrel of oil produced and each 1,000 cubic feet of natural gas produced in this State, as authorized by Section 6 of Acts 105 of 1939, as amended, and shall include all other fees authorized by law to be collected by the Commission as hearing fees, drilling fees, annual fees, and all other fees and costs imposed by the Commission to defray the administrative costs of administering the oil and gas laws of this State, which are required by law to be deposited in the Oil and Gas Commission Fund in the State Treasury, as contrasted to tax revenues deposited in the Oil and Gas Commission Fund for the support of the Commission.

(f) "Surplus fee revenues" shall mean:

(i) that portion of the balance of funds in the Oil and Gas Commission Fund which accrued thereto from fee revenues, which the Oil and Gas Commission determines may be set aside for the purpose of defraying construction costs and debt service requirements with respect to funds borrowed for the construction and equipping of the building and parking lot to house the Commission and its staff, as authorized in this Act, and

(ii) shall include that portion of fee revenues estimated to be collected by the Commission during the lifetime of any indebtedness incurred under the provisions of this Act, that the Commission designates to be set aside to defray construction costs and debt service requirements for indebtedness incurred in connection with the construction and equipping of the building and parking lot to house the Commission and its staff, which the Commission determines not to be required to defray annual operating costs of the Commission and its staff, programs, and services.

(g) "Project" or "the project" shall mean the acquisition of land and the construction and equipping of a building and parking lot in El Dorado, Union County, Arkansas, to house the Oil and Gas Commission, its staff and programs and services of the Commission, and shall include all expenses necessary or attendant thereto.

SECTION 2. The Oil and Gas Commission is hereby authorized to immediately complete the acquisition of land and to proceed with the development of plans, the advertisement for bids, and the award of contracts for the construction and equipping of a building and parking lot to meet the needs and requirements of the Commission and its staff for a headquarters building, to be located in El Dorado, Union County, Arkansas, for which funds were appropriated by Acts 371 of 1983.

SECTION 3. The following shall be requisite to the completion and acquisition of the necessary land and the construction of such building and parking lot for the Oil and Gas Commission:

(A) A formal resolution shall be adopted by the Commission at a regular or special meeting of the Commission, indicating its intention to implement the provisions of this Act, and such resolution shall be recorded in the minutes of the Commission meeting. The resolution

shall set forth the details of the building and facilities to be constructed, the equipment to be acquired, and the proposed Method of Financing of such project.

(B) Recommendation in writing by the State Building Services affirming the need for the construction of the building and improvements contemplated in the resolution adopted by the Commission. State Building Services shall, in connection with such building project, perform the respective duties required in connection therewith, as provided in subsection (c) of Section 7 of Act 716 of 1975, and all other duties with respect to such project as required by Act 716 of 1975 or by other laws of this State.

(C) Review and approval by the Chief Fiscal Officer of the State of the proposed Method of Financing the project, as provided by law.

SECTION 4. The Commission is hereby authorized to finance the construction cost of the project (acquisition of land, construction and equipping of the building and parking lot), for which funds were appropriated in Act 371 of 1983, as follows:

(a) the use of surplus fee revenues (as defined in this Act) estimated to be available to the Oil and Gas Commission Fund, which will not be required for the day-to-day operation of the Commission;

(b) the use of funds derived from the sale of the present Oil and Gas Commission building, including the land thereupon; and

(c) from funds borrowed by the Commission deemed necessary to supplement other funds available to the Commission for the project, as authorized in Section 5 of this Act.

Provided that, the cost of the project for the acquisition of land, construction, and equipping of the building and the parking lot for the Oil and Gas Commission shall not exceed an aggregate cost of \$1,500,000.

SECTION 5. (a) The Oil and Gas Commission is hereby authorized to borrow such funds as may be necessary to supplement monies available to the Commission for the Oil and Gas Commission building construction project from one or more banks or lending institutions in this State, for such duration and at such rate(s) of interest as the Commission may deem to be in the best interest of the early completion of the project.

(b) It shall be plainly stated on the face of the loan instrument(s) that the same has been issued under the provisions of this Act, and that the loan(s) shall be an obligation only of the Oil and Gas Commission, that in no event shall the indebtedness constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged.

(c) No member of the Oil and Gas Commission shall be personally liable on any such loan(s) or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purpose and intent of this Act, unless he shall have acted with a corrupt intent.

(d) The principal of, interest on, and any indebtedness expenses in connection with such loan(s) shall be secured by a lien on and pledge of the surplus fee revenues belonging to the Oil and Gas Commission, as

defined herein, and shall be payable solely from such fee revenue monies.

(e) As long as such indebtedness is outstanding, the maximum rate of assessment fees authorized to be imposed by the Oil and Gas Commission with respect to oil and gas production in this State, and the rate of other fees and costs authorized to be collected by the Commission as now authorized by law, shall not be reduced, provided that, in the event any of such fees or the maximum assessment fee rates are reduced, the General Assembly hereby agrees to authorize additional fees or sources of fees for the support of the Commission at least equal to those that would have been collected by the Commission from assessments and fees now authorized by law, while any such indebtedness is outstanding.

(f) Payment of principal of, interest on, and other costs of indebtedness incurred under this Act may be made from funds appropriated for such project under the provisions of Act 371 of 1983, or from any other funds appropriated for the support, maintenance, and operation of the Oil and Gas Commission.

SECTION 6. Monies derived by the Commission for the support of the project from loans as authorized in Section 5 of this Act shall be deposited in the State Treasury to the credit of the Oil and Gas Commission Fund, unless the loan instrument requires the same to be deposited in a bank account to be available solely for the support of the project, in which event the Commission may establish one or more accounts in banks authorized to do business in this State and deposit the monies derived from the loan therein, in an account to be known as the "Oil and Gas Construction Account" to be used solely and exclusively within the limits and for the purposes set forth in Act 371 of 1983.

SECTION 7. For the purpose of reducing the estimated amount of funds to be borrowed in connection with such building project, the Oil and Gas Commission is hereby authorized to provide for the sale of the existing building and land belonging to the Commission located in the City of El Dorado, Union County, Arkansas, if the Commission determines that said building and the land upon which the building is located will no longer be required for use by the Commission. The proposed sale of the building may be conditioned upon the purchaser agreeing to lease the building to the Commission at a rental rate acceptable to the Commission for a stated period of time estimated to be required for the construction and equipping of the building to house the Commission and its staff. If the Commission elects to dispose of such building and land, in order to apply the proceeds derived from such sale toward the construction cost of the new facility, the Commission shall certify said fact to the State Building Services and request the State Building Services to provide for the sale of the building in the manner authorized by law, with the net proceeds derived therefrom, after deducting all costs of such sale, to be deposited in the State Treasury to the credit of the Oil and Gas Commission Fund. If the Commission finds it necessary to rent facilities for housing of all or a portion of its staff

and services during the course of the construction work, such rental payments may be considered as a part of the construction cost, and payment thereof may be made from monies appropriated for such project under the provisions of Act 371 of 1983, or from any other funds appropriated for the support, maintenance, and operation of the Oil and Gas Commission.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that the Oil and Gas Commission is housed in an inadequate facility which severely handicaps the Commission's ability to perform its duties as required by law, and that the immediate passage of this Act is necessary to authorize the Commission to proceed with the construction of an adequate building and parking lot to house the Commission and its staff, thereby expediting the Commission's ability to regulate the exploration and production of oil and natural gas in this State. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval. APPROVED: March 6, 1985.

11. WAR MEMORIAL STADIUM, REMISSION OF TRUST FUNDS — ACTS 1985, No. 393.

SECTION 1. The trustee of the trust estate established by the War Memorial Stadium Commission under the trust agreement entered into pursuant to the authority of Act 3 of the Second Extraordinary Session of 1968, approved May 24, 1968, for the purpose of securing the payment of, and of paying, its outstanding War Memorial Stadium revenue bonds, authorized and issued under the provisions of Act 249 of the Acts of the General Assembly, approved March 18, 1947, referred to in said Act 3 as "2-1/4% bonds," and its outstanding War Memorial Stadium Revenue Refunding Bonds, authorized and issued under the provisions of Act 5 of the Acts of the General Assembly, approved August 31, 1961, referred to in Act 3 as "refunding bonds," is hereby authorized and directed to convert the assets of such trust estate into cash and to remit the entire balance of funds remaining in said trust estate, to the War Memorial Stadium Commission, to be deposited in the War Memorial Stadium Commission Fund in one or more banks in this State, to be used by said Commission for the construction, reconstruction, repair, improvement, maintenance, and operation of the War Memorial Stadium in the manner provided by law.

SECTION 2. After receiving from the trustee the balance remaining in the trust fund established under the authority of Act 3 of the Second Extraordinary Session of 1968, the War Memorial Stadium Commission shall, from funds available to the Commission, indemnify the trustee of such trust estate against any and all liability with respect to War Memorial Stadium revenue bonds or War Memorial Stadium Revenue

Refunding Bonds, including any accrued interest thereon, which may be presented for payment by the trustee subsequent to the transfer of the balance of funds to the War Memorial Stadium Commission, as provided in this Act.

SECTION 3. This Act shall repeal only such laws or parts of laws as are specifically in conflict herewith.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that:

(a) the War Memorial Stadium Commission is in need of additional funds to make expansions, improvements, and repairs to the War Memorial Stadium and is in need of additional operating funds to provide for the protection and safety of the people attending the various attractions held at the Stadium, and that said needs should be met at the earliest possible moment;

(b) the balance of funds now being held by the trustee of the trust estate established pursuant to the trust agreement entered into by the War Memorial Stadium Commission pursuant to Act 3 of the Second Extraordinary Session of 1968 is needed to relieve said conditions;

(c) the owners of outstanding War Memorial Stadium revenue bonds and/or Refunding Bonds have had reasonable and ample opportunity to present the same for payment, and that it is no longer necessary to tie up said funds in accordance with the trust agreement, thereby depriving the War Memorial Stadium Commission of the use of said funds for improving and operating the War Memorial Stadium;

(d) by authorizing and directing the Stadium Commission to indemnify the trustee for any obligations presented for payment in accordance with the trust agreement, said trustee will be held harmless from liability, and the Commission will be authorized to meet the obligations of such payment from monies available to the Commission; and

(e) that the immediate passage of this Act is necessary to accomplish said purposes.

Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval. APPROVED: March 18, 1985.

12. CAPITOL MALL FACILITY AND STATE AGENCIES FACILITIES ACQUISITION ACT OF 1991 — ACTS 1991, No. 235, AS AMENDED BY ACTS 1991, No. 923.

SECTION 1. This act shall be known and cited as the "Capitol Mall Facility and State Agencies Facilities Acquisition Act of 1991."

SECTION 2. DEFINITIONS. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) "Agency" or "state agency" means any agency, board, office, commission, department, division or institution of the State of Arkansas.

(b) "Bonds" or "revenue bonds" means any bonds, notes, debentures, interim certificates, grant and revenue anticipation notes, interest in a

lease, lease certificate(s) of participation or evidences of indebtedness, whether or not the interest on them is subject to federal income taxation.

(c) “The Capitol Mall Facility” or the term “the facility” means those structures contained in the “Facilities — Master Plan — Year 1985” on page 79 of the Arkansas State Capitol Complex Master Plan, as prepared under the direction of the Arkansas Public Building Authority authorized by Act 236 of 1973, dated June, 1974, and any architectural drawings prepared in connection therewith which are on file with State Building Services, to include the following:

(i) Building Number 1 under the Legend, entitled “Agency Office, Module A; Visitor Center, 220 Car Garage;”

(ii) Building Number 2 under the Legend, entitled “Agency Office, Module B;”

(iii) Building and Facility Number 4 under Legend, entitled “750 Car Garage;”

(iv) the necessary tie-in to the State Capitol Building and to connect Building Number 3 under the Legend, entitled “Library Archives — Museum Module” now existing, which is commonly referred to as the the “Big Mac” or “Capitol Mall No. 1” Building;

(v) such modifications to the aforementioned buildings and facilities, and the architectural drawings prepared in connection therewith, as are deemed necessary to meet current and projected needs;

(vi) landscaping and other improvements in connection with the project deemed necessary to accommodate the overall architectural and topographical scheme of the State Capitol grounds; and

(vii) related structures, fixtures, and facilities (including, without limitation, utilities, parking facilities, streets, curbs, gutters, and a maintenance/operations center necessary to accommodate such facility), as may be determined to be appropriate.

(viii) construction of such additional parking decks and parking facilities that are not identified in the “Facilities — Master Plan — Year 1985” on page 79 of the Arkansas State Capitol Complex Master Plan, which State Building Services deems necessary to meet parking needs on the State Capitol grounds, provided that the construction thereof does not conflict with the basic design and location of proposed buildings and facilities included within the long-range Capitol Complex Master Plan.

(d) “State Building Services” means the public agency known as “Arkansas State Building Services” and the “State Building Services Council”, as established under Arkansas Code § 22-2-101 et seq.

(e) “Construct” means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements or other property, real, personal or mixed, useful in connection with buildings and facilities constructed or acquired under this act and to make other necessary expenditures in connection therewith, by such methods and in such manner as the State Building Services shall determine to be necessary or desirable to accomplish the powers,

purposes, and authority set forth in this act.

(f) "Authority" means the Arkansas Development Finance Authority created pursuant to Act 1062 of 1985, as amended.

SECTION 3. (a) CAPITAL MALL FACILITY. In addition to the purposes, powers, and authority set forth elsewhere in this act or in other laws, the State Building Services is hereby authorized and empowered to construct on the State Capitol grounds the Capitol Mall Facility, as defined herein, with construction of new enclosed buildings not to exceed a cumulative gross building area of one hundred thousand (100,000) square feet commenced through calendar year 1992, two hundred thousand (200,000) square feet commenced through calendar year 1994, three hundred thousand (300,000) square feet commenced through calendar year 1996, four hundred thousand (400,000) square feet commenced through calendar year 1998, and five hundred thousand (500,000) square feet commenced through calendar year 2000, with such restrictions to apply to enclosed buildings only and shall not apply to square feet area of parking structures or parking space required in connection with or necessitated by the construction of new buildings or to meet the needs of parking space on the State Capitol grounds; and in furtherance thereof to:

(1) arrange for the housing in the Capitol Mall Facility of state agencies to the extent that space and facilities are available for such purpose, under such terms and conditions and for such rentals and charges as State Building Services may determine;

(2) construct or cause to be constructed streets, curbs gutters, utilities, landscaping, and parking facilities to serve the facility;

(3) purchase, lease, or rent, and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property (real, personal, or mixed), and convert such property into money and/or other property;

(4) contract and be contracted with;

(5) apply for, receive, accept, and use any moneys and property from the government of the United States of America, provided by the General Assembly, any agency, any state, or governmental body or political subdivision, any public or private organization or corporation, of any nature, or any individual;

(6) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth herein, in accordance with the duly promulgated policies of the State Building Services as authorized by law.

(b) In addition to the purposes, powers and authority set forth elsewhere in this act or in other laws, in connection with the construction and equipping of the Capitol Mall Facility, as defined herein, the Authority is hereby authorized:

(1) to obtain the necessary funds for accomplishing the purposes set forth in this act, from any source or sources, including, without limitation, the proceeds of revenue bonds or lease financings as authorized herein, and other funds as may be appropriated or may be available therefor; and

(2) contract and to be contracted with; and

(3) invest and reinvest any of the proceeds of such revenue bonds as provided in such authorizing resolution or trust indenture, hereinafter authorized; and

(4) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes and authority set forth herein, in accordance with the duly promulgated policies of the Authority as authorized by law.

(c) ACQUISITION OF BUILDINGS AND FACILITIES. In addition to the purposes, powers, and authority set forth in subsection (a) of this section and as set forth elsewhere in this act or in other laws, the State Building Services is hereby authorized and empowered to acquire buildings and facilities located in the city in which the seat of State Government is located to house state agencies, and repair, remodel, and renovate such buildings and facilities as State Building Services shall deem necessary and appropriate to accommodate state agencies, provided that no single acquisition may exceed a total cost of four million dollars (\$4,000,000) in value, whether acquired by purchase, exchange, eminent domain, long-term lease, or other means, exclusive of the cost of repairs, remodeling, and renovation of such buildings and facilities as State Building Services deems necessary and appropriate to accommodate state agencies, provided that the area of the structure of any such existing building or facility is not expanded by more than ten percent (10%) in connection therewith. All property acquired on a specific site shall be considered as a part of a single acquisition. In furtherance of the purposes authorized by this subsection, State Building Services is hereby authorized and empowered to:

(1) exercise the power of eminent domain for the purpose of acquiring buildings and facilities and to otherwise carry out the purposes and intent of this act, with such power to be exercised in the manner provided in Arkansas Code § 22-2-109;

(2) arrange for the housing of state agencies in such buildings and facilities to the extent that space and facilities are available for such purpose, under such terms and conditions and for such rentals and charges as State Building Services may determine;

(3) acquire, construct, or cause to be constructed parking facilities to serve the facility;

(4) receive the necessary funds for accomplishing its powers, purposes, and authority from any source or sources, including, without limitation, the proceeds of revenue bonds issued hereunder and other funds as may be appropriated or made available therefor;

(5) purchase, lease, or rent, and receive bequests or donations of or otherwise acquire, sell, trade, or barter, any property (real, personal, or mixed), and convert such property into money and/or other property;

(6) contract and be contracted with;

(7) apply for, receive, accept, and use any monies and property from the government of the United States of America, any agency, any state, or governmental body or political subdivision, any public or private

organization or corporation, of any nature, or any individual;

(8) invest and reinvest any of its money (in securities selected by State Building Services);

(9) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth herein, in accordance with the duly promulgated policies of the State Building Services Council.

(d) It is the intent of this section to authorize State Building Services to undertake, in the manner and subject to the limitations set forth in subsection (a), the construction of the Capitol Mall Facility and that, excepting parking structures, new building construction shall not be permitted under this act except to implement the Capitol Mall Facility as defined in subsection (c) of Section 2 of this act. In addition, it is the purpose of this act to authorize State Building Services to acquire buildings and facilities ("acquired structures") in the city in which the seat of State Government is located in the manner authorized in subsection (b) of this section and to provide that the repair, remodeling, and renovation of such facilities by State Building Services shall not be considered new building construction if such repair, remodeling, and renovation does not expand the existing structure by more than ten percent (10%) in area. The restrictions contained in subsection (a) of this section with respect to the limitations on the square footage of new construction to be undertaken on the Capitol Mall Facility during each biennium, and the restrictions on the cost of a single "acquired structure" under subsection (b) of this section, shall not apply to the acquisition, construction, or improvement of parking structures or parking areas as authorized under subsection (a) of this section or in connection with "acquired structures" under subsection (b) of this section.

SECTION 4. REVENUE BONDS.

(a) Pursuant to the intention of the General Assembly expressed in Arkansas Code Annotated § 15-5-303, the Authority, in co-operation with State Building Services, is hereby authorized and empowered to issue revenue bonds, at one time or from time to time, and to use the proceeds thereof for defraying the costs of accomplishing all or part of the powers, purposes and authorities set forth in this act, pay all incidental expenses in connection therewith, pay the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the Authority deems such desirable, and making provision for the payment of interest and trustee's fees on the bonds. The bonds outstanding under this act may be in such principal amount as the Authority and State Building Services shall determine to be necessary for the accomplishment of the purposes of this act.

(b) The bonds shall be authorized, shall be sold by such means, shall bear such rate or rates of interest, and shall be executed and delivered in such manner as the Authority may determine pursuant to the provisions of Arkansas Code Annotated § 15-5-301 to § 15-5-316,

inclusive. The Authority is authorized to enter into such authorizing resolutions and trust indentures as it deems necessary to secure the revenue bonds.

SECTION 5. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this act, that the bonds shall be obligations only of the Authority, that in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues (within the meaning of Amendment 20 to the Constitution of the State of Arkansas) are pledged. No member of the Authority shall be personally liable on the bonds.

(b) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the pledged revenues, defined in Section 6 hereof. The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provisions for the use of surplus revenues, if any, for any other lawful purposes.

SECTION 6. The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this act shall be secured solely by a lien on and pledge of the gross revenues derived from the leasing or renting to state agencies or other tenants of space in the Capitol Mall Facility and in the buildings and facilities acquired pursuant to this act and the pledging of such revenues (the "pledged revenues") is hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted in their use and dedicated (and) to be used solely as provided and authorized in this act. Commencing the first day of the month succeeding the issuance of the bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation, but, as and when received (by the Authority, or by any other state agency, as the case may be) shall be deposited in a bank or banks selected by the Authority, to the credit of funds designated the "Capitol Mall Facility and State Agencies Facilities Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all moneys in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this section is intended to prohibit the State Building Services from investing moneys received hereunder, as provided in this act.

SECTION 7. Any authorizing resolution and trust indenture shall, together with this act, constitute a contract between the Authority and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly

performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the Authority may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the Authority is hereby expressly authorized to include in any authorizing resolution or trust indenture all or any part of the following covenants:

(1) that, to the fullest extent possible, State Building Services will continuously operate the Capitol Mall Facility and other buildings and facilities acquired under this act as revenue-producing undertakings, including the maintenance of occupancy and the use of facilities and space so as to avoid any impairment of the security for the bonds; and

(2) that, to the fullest extent possible, State Building Services and the Authority will always charge, impose and collect sufficient rentals and other revenue to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and bonds.

SECTION 8. Bonds issued under the provisions of this act, and the interest thereon, shall be exempt from all state, county, and municipal taxes, and the exemption shall include income, inheritance, and estate taxes.

SECTION 9. The Authority shall include necessary provisions in the authorizing resolution or trust indenture to provide for the deposit of the proceeds of the bonds pursuant to the provisions of Arkansas Code Annotated § 15-5-209. The Authority may create and establish one or more special funds in such depositories and make such investment as it may designate to provide for the construction, secure the bonds, establish reserves, and fund other necessary functions or activities authorized by the act.

SECTION 10. REFUNDING BONDS. Bonds may be issued for the purpose of refunding any bonds issued under this act. Refunding bonds may be issued by the Authority pursuant to the provisions of Arkansas Code § 15-5-314.

SECTION 11. No member of the State Building Services Council shall be held personally liable for any act taken by the Council or for any damages sustained by anyone in any contract entered into in carrying out the purposes and intent of this act, unless he (she) shall have acted with a corrupt intent.

SECTION 12. (a) The State Building Services is hereby authorized to supervise and manage the Capitol Mall Facility and the other buildings and facilities acquired pursuant to the authority granted herein and to manage, maintain and repair said buildings and facilities to provide rental space to be made available for the housing of state agencies, departments, boards, commissions and institutions, or other tenants, at such rental rates as deemed necessary:

(i) to provide sufficient funds to enable the Authority to meet, when due, the payment of principal of, interest on, and trustee's and paying

agents' fees in connection with all bonds issued under this act;

(ii) to enable the Authority to establish and maintain such reserves, and other financial obligations in regard to the bonds issued under the provisions of this act as shall be set forth in any authorizing resolution or trust indenture utilized for that purpose; and

(iii) in addition thereto, to pay the costs of utilities, insurance, janitorial supplies and services, building maintenance, upkeep, repair, and remodeling as deemed necessary, including the accumulation of reserves deemed necessary for such purposes as authorized under the provisions of this act, and, in connection therewith, the State Building Services may establish one or more accounts in one or more banks authorized to do business in this state to accomplish such purposes.

(b) The State Building Services is hereby authorized to hire legal counsel of its choice to assist in the administration of this act.

SECTION 13. The following provisions shall apply to the Capitol Mall Facility:

(a) The General Assembly recognizes that the State Building Services has in its possession the original architectural drawings and plans for the construction of the Capitol Mall Facility as developed for and in behalf of the Public Building Authority under the authority of Act 236 of 1973, and the State Building Services is hereby authorized to employ architects to review such plans and to prepare such additional plans, specifications and estimates of costs for the construction of the Capitol Mall Facility as defined herein and the various facilities in connection therewith and to supervise and inspect such construction. After the State Building Services shall have approved the plans and specifications reviewed, modified and prepared by the architect, it may proceed to advertise for bids and award a contract for the construction of the facility in accordance with applicable laws governing the construction of public buildings. In addition, the State Building Services is hereby authorized to engage and pay such professional, technical, and other help as it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this act.

(b) (1) In the event the provisions of this act are implemented, the following-described lands acquired in the name of the State of Arkansas by the Arkansas Revenue Department Building Commission pursuant to the provisions of Act 151 of 1965 and any laws amendatory thereto, shall be transferred by said commission to the State Building Services, to be held in the name of the State of Arkansas, to be used by the State Building Services for the purposes provided in this act, all of said lands being situated in the City of Little Rock, Pulaski County, Arkansas, to wit:

“A tract of land located in the E ½ of S4, T1N, R12W of the 5th Principal Meridian, said tract being located within the limits of the State Office Complex for the State Capitol at Little Rock, Pulaski County, Arkansas, as shown on the map titled Boundary Survey, State Office Complex by Edward G. Smith & Associates dated October 30,

1974, more particularly described as follows:

Commencing at the SW corner of Lot 12, Block 345 of Barton's Subdivision; thence S89 deg. 57'-45W 1430.81 feet to a point; thence North 569.68 feet to the point of beginning; thence West 320.0 feet to a point; thence North 115.0 feet to a point; thence East 320.0 feet to a point; thence South 115.0 feet to the point of beginning, said tract containing .8448 acres more or less."

(2) In the event revenue bonds are issued for the purpose of constructing the Capitol Mall Facility, as defined herein, the State Building Services shall have jurisdiction and control over the following lands, which include the lands described in subsection (1) of this subsection, located on the State Capitol Grounds, to wit:

"A tract of land located in the E $\frac{1}{2}$ of S4, T1N, R12W of the 5th Principal Meridian, said tract being located within the limits of the State Office Complex for the State Capitol at Little Rock, Pulaski County, Arkansas, as shown on the map titled Boundary Survey State Office Complex by Edward G. Smith & Associates dated October 30, 1974. The tract is more particularly described as follows:

Commencing at the SW corner of Lot 12, Block 345 of Barton's Subdivision; thence S89-57-45W 985.81 feet along the North Boundary of 7th Street to point of beginning; thence continuing S-89-57-45W 445.0 feet to a point; thence North 569.68 feet to a point; thence West 320.0 feet to a point; thence North 115.0 feet to a point; thence East 320.0 feet to a point; thence North 692.27 feet to a point on the South Right-of-Way of the Missouri Pacific RR and the North Boundary of the State Office Complex; thence N54-57E 35.83 feet to a point; thence N88-09E 63.5 feet to a point; thence S 01-56E 18.18 feet to a point; thence North 54-55E 83.29 feet to a point on the South Right-of-Way of West 3rd Street being the North Boundary of the State Office Complex; thence S89-29E 783.47 feet along the South Boundary of 3rd Street to a point; thence S 967.54 feet to a point; thence West 380.0 feet to a point; thence North 200.0 feet to a point; thence West 390.0 feet to a point; thence South 300.0 feet to a point; thence East 270.0 feet to a point; thence South 354.39 feet to the point of beginning, said tract containing 24.04 acres more or less."

(3) The State Building Services, on behalf of the State of Arkansas, is hereby granted an easement or license over the State Capitol, the various buildings on the State Capitol grounds, and the State Capitol grounds, for the purpose of installing or relocating utilities, connecting the Capitol Mall Facility to existing structures, and such other purposes necessary and consistent with the Capitol Mall Facility project, as authorized in this act.

(4) Expenses incurred in utility installation or relocation and those directly associated with the connection of the Capitol Mall Facility to existing structures on the State Capitol grounds, shall be paid as a part of the project cost.

(5) Should it be necessary to relocate the cafeteria now located in the State Capitol Building, to connect the Capitol Mall Facility with the

State Capitol Building, the Secretary of State may make necessary arrangements for the cafeteria to be temporarily relocated in the State Capitol Building if the area in the Capitol Mall Facility for the cafeteria is not yet completed for its relocation. The cost of relocation of the cafeteria, if the Secretary of State deems the same to be necessary, shall be defrayed from funds appropriated or provided for the operation and support of the Secretary of State's office.

(6) The State Building Services shall coordinate with the affected agencies and the Secretary of State efforts to relocate state agency occupants of existing structures on the State Capitol grounds during construction, into State-owned facilities if available, and to pay any additional rentals for space used to house such state agencies as a part of the cost of the project for the term of the construction of the project unless funds are otherwise provided by the General Assembly therefor.

(7) The granite boulder placed June 15, 1936, in celebration of the State's centennial, and the bauxite boulder placed March 1943, honoring the State's contribution to the World War II effort, now located on the site of the proposed Capitol Mall Facility, shall be relocated by the State Building Services to such other areas or sites as may be designated by the Secretary of State. Costs of relocating these monuments shall be considered a cost of the project unless funds are otherwise provided for such purposes.

(c) The State Building Services is hereby authorized to:

(1) acquire from the Employment Security Division of the Department of Labor any title and interest in the building it now has or may hereafter acquire, located on the State Capitol grounds, known as the "Employment Security Building", in exchange for which the Employment Security Division may be granted an advance rental payment credit in an amount to be determined by the value of the building, reduce the division's rental payment for occupancy in the Capitol Mall Facility, or,

(2) purchase, on behalf of the State of Arkansas, from the Employment Security Division the building on the State Capitol grounds at a price agreed to by the parties involved. If the building is purchased by the State Building Services, then no relocation costs shall be paid to the Employment Security Division.

As evidence of this transfer, the Director of the Department of Labor is hereby authorized to execute any instrument or conveyance or contract as the Attorney General of the State of Arkansas shall deem necessary.

(d) (1) The State Building Services is hereby authorized to lease additional temporary parking areas near the State Capitol Building during the construction phase of the Capitol Mall Facility project and to provide and operate, if necessary, one or more shuttle buses between such parking areas and the State Capitol grounds. The State Highway and Transportation Department shall assist the State Building Services in ground preparation and surfacing of additional temporary parking spaces as authorized in this act.

(2) Upon completion of the construction phase of the Capitol Mall Facility project, the State Building Services shall develop parking regulations which will maintain equitable parking among the tenants of the Capitol Mall Facility and the public, and may establish reasonable rental or other charges for parking therein. The State Capitol Police shall provide the necessary traffic patrols and policing of the Capitol Mall Facility parking areas.

(3) The State Building Services is hereby authorized to negotiate with any state agency or department now occupying existing structures on the site of the Capitol Mall Facility and to provide for the relocation of the agency or department during the construction of the Capitol Mall Facility, or may provide compensation for the existing structure(s) should acquisition of the structure(s) be necessary in connection with the project. The compensation paid for acquisition of existing structure(s) must be submitted to and approved by the Governor and the same shall constitute a cost of the Capitol Mall Facility project.

(4) The State Building Services, shall, prior to the beginning of the project, develop a proposed master plan of housing state agencies and departments within the facilities of the Capitol Mall project, and shall recommend in such plan the priorities by which space is to be provided for rental by state agencies and departments identified in the plan, and shall submit such plan, together with the recommended schedule of rental payments deemed necessary by the State Building Services to defray the cost of the project on a year-to-year basis, to the Governor for his review and approval, and shall submit a copy thereof to the Legislative Council for its information and review. Upon receipt of such proposed plan the Governor shall review the same and may make such changes therein, including the priorities in providing space for state agencies and departments, as he deems appropriate, and shall endorse his approval thereon.

It is the intent of this subsection that the Governor shall determine the needs and priorities for locating or relocating state agencies and departments into space in the Capitol Mall project facilities. After the proposed plan is approved by the Governor, the State Building Services shall confer from time to time with the Governor in connection with priorities in the location or relocation of state agencies and departments in said Facility.

(e) In furtherance of the construction of the Capitol Mall Facility as authorized in subsection (a) of Section 3, State Building Services is authorized to enter into agreements with the respective Boards of Trustees of the Arkansas Teacher Retirement System, the Arkansas Public Employees Retirement System, and the Arkansas State Police Retirement System for the construction of a building which shall be a portion of the building identified as Building No. 1 contained in the "Facilities — Master Plan — Year 1985" on page 79 of the Arkansas State Capitol Complex Master Plan as defined in subsection (c) of Section 2, deemed adequate for the office space needs of their respective retirement systems for current and anticipated future expansion,

provided that:

(1) such facilities shall be constructed by the State Building Services in accordance with a contract entered into by the State Building Services Council and the Boards of Trustees of the respective retirement systems setting forth the square footage of space to be allocated to and owned by the respective retirement systems upon completion of this project, with the cost thereof to be defrayed by each of the retirement systems in such manner and under such terms and conditions as may be agreed to by the respective retirement systems and the State Building Services Council;

(2) the agreement provides that the facilities shall, during construction and upon completion thereof, be managed by State Building Services in accordance with the provisions of section 22-2-101 and subsequent sections of the Arkansas Code;

(3) to manage and rent any surplus space that each of the retirement systems may designate for lease to other state agencies under such terms and conditions, and for such duration, that may be agreed to by the respective retirement systems and State Building Services, with all rental income over and above management costs defrayed by State Building Services to be remitted to the respective retirement systems as income to each of the respective systems.

(4) such respective retirement systems may utilize funds available to them for investment purposes for payment to the State Building Services for the cost of construction of the facilities authorized in this subsection, in which event the construction cost of the facilities acquired for the respective retirement systems may be amortized in accordance with the amortization plan for funding their retirement systems, but in no event extending over a period exceeding forty (40) years. The respective retirement systems shall enter into agreements with State Building Services to pay all costs of maintenance, janitorial, and other services as operating expenses for the use of the facilities assigned to the respective retirement systems.

SECTION 14. From and after the effective date of this act, no new buildings or facilities to provide office space for State Agencies shall be constructed on the State Capitol grounds unless the same are part of and in conformance with the Capitol Mall Facilities — Master Plan — Year 1985 on page 79 of the Arkansas State Capitol Complex Master Plan as prepared under the direction of the Arkansas Public Building Authority authorized by Act 236 of 1973, dated June 1974, or as contained in such plan as expanded in the Proposed Facilities Master Plan — Year 2000 on page 80 of said Arkansas State Capitol Complex Master Plan. Nothing in this act shall restrict or prohibit the construction of surface parking or parking decks on the State Capitol grounds, provided that parking facilities shall be constructed in areas now utilized as parking or designated as parking on the Arkansas State Capitol Complex Master Plan — Year 1985 or in accordance with the Facilities Master Plan — Year 2000 as prepared by the Arkansas Public Building Authority.

SECTION 15. This act shall not create any right in any bondholder for bonds issued pursuant to this act, and no right of such bondholder shall arise under it, until bonds authorized by this act (of the initial issue or series) shall have been sold and delivered by the Authority.

SECTION 16. This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

SECTION 17. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 19. All laws and parts of laws in conflict with this act are hereby repealed. APPROVED: February 25, 1991.

13. DEPARTMENT OF HEALTH BUILDING EXPANSION ACT OF 1991 — ACTS 1991, No. 1162.

SECTION 1. This act shall be known as the "Department of Health Building Expansion Act of 1991."

SECTION 2. As used in this act:

(1) "Authority" means the Arkansas Development Finance Authority;

(2) "Authorizing resolution" means the resolution or resolutions adopted by the board authorizing the loan;

(3) "Board" means the State Board of Health of the State of Arkansas;

(4) "Building" means the State Department of Health Building, located on West Markham Street in Little Rock, Arkansas, including the expansion;

(5) "Construction Fund" means the State Board of Health 1991 Building Expansion Construction Fund created pursuant to this act;

(6) "Director" or "State Health Officer" means the Director of the Arkansas Department of Health;

(7) "Construct" or "or construction" means to acquire, construct, reconstruct, remodel, install and equip any lands, building, structures, improvements or other property, real, personal or mixed, useful in connection with the expansion and to make other necessary expenditures in connection therewith, by such methods and in such manner as may be authorized by law, and in the case of the acquisition of equipment and other property of a medical, laboratory or technical nature by such method as the board or the director shall determine to be necessary or desirable to accomplish the power, purposes and authorities set forth in this act and without regard to the provisions of

other laws pertaining to the construction and acquisition of property by state agencies. The term also includes payment or provision for expenses incidental thereto;

(8) "Expansion" means the expansion and improvement of the building as provided for herein, including the renovation and alteration of existing properties, real, personal or mixed;

(9) "Fees" means all fees set forth in Ark. Code Ann. 20-7-123, which fees are confirmed and ratified by this act;

(10) "Fee revenues" means all revenues derived from all or any of the fees;

(11) "Loan" means the loan which the board is authorized to effect, from the authority, by the terms of this act;

(12) "Revenue Fund" means the State Board of Health Fee Revenue Fund created pursuant to this act;

(13) "Revenue Loan Fund" means the State Board of Health Fee Revenue Loan Fund created pursuant to this act.

SECTION 3. (a) The expansion shall be constructed. The board is authorized to approve the construction of the expansion and to take such action as may be appropriate to the completion of the expansion and any facilities necessarily related thereto.

(b) Subject to the approval of the board, the plans, specifications and estimates of cost for the expansion shall be approved by the director, and the director is authorized to employ such architects and such other like professional and technical assistance as determined to be necessary for the construction of the expansion.

(c) The board and the director are authorized to take such action as may be appropriate for the construction of the expansion and to the accomplishment of the purposes of this act and may engage such legal, technical and other assistance as determined to be necessary to the construction of the expansion, the effecting of the loan and the accomplishment of the purposes of this act.

SECTION 4. (a) To finance to construction of the expansion, the board is authorized to enter into a loan, from the authority, in the principal amount of not more than six million five hundred thousand dollars (\$6,500,000), pursuant to Arkansas Code of 1987 Annotated, Title 15, Chapter 5. The amount and purpose of the loan shall be approved by the board in an authorizing resolution, copies of which shall be maintained in the records of the board and of the authority.

(b) The loan shall bear interest at a rate determined by the rate of interest on funds borrowed by the authority to fund the loan, but not to exceed the lesser of ten percent (10%) per annum or the maximum rate of interest permitted by Amendment No. 60 to the Arkansas Constitution.

(c) The loan shall mature over a period of not more than thirty (30) years.

(d) The board and the director are authorized to execute and deliver such agreements, instruments and other undertakings and writings and to take such action as may be appropriate to evidence the loan and

the security therefor and to carry out the purposes of this act.

SECTION 5. The payment and other obligations of the board under and with respect to the loan shall be secured by a pledge of the fee revenues, subject to the terms of this act and the reserved power to release fee revenues as set forth in this act. The loan shall be an obligation of the board only and shall not constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged. The loan shall not be secured by a lien on any land, building or other property belonging to the State of Arkansas. The loan shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation.

SECTION 6. The fees set forth in Ark. Code Ann. 20-7-123, which are the "fees" for all purposes of this act, are hereby confirmed and ratified.

SECTION 7. (a) Commencing July 1, 1991, and so long as the loan is outstanding, all fee revenues shall be treated as cash funds and shall not be deposited in the State Treasury, except as set forth in this act, but shall be deposited, as and when received, in a bank or banks approved by the board or the director, in an account or accounts of the board designated "State Board of Health Fee Revenue Fund." All moneys in the Revenue Fund shall, commencing on the date set forth above and so long as the loan is outstanding, shall not be subject to the provisions of Arkansas Code of 1987 Annotated 19-4-801 through 806 and shall be deposited, handled and disbursed as set forth in this act.

(b) Moneys held in the Revenue Fund shall, no less frequently than bimonthly, be withdrawn therefrom and deposited as follows and in the following order of priority:

(1) An annual amount sufficient to provide for principal, interest, servicing fees (if any) and reserve requirements with respect to the loan, but not to exceed the sum of six hundred and fifty thousand dollars (\$650,000) per fiscal year:

(A) prior to the commencement of the loan, in the Construction Fund; or

(B) beginning upon commencement of the loan, in an account or accounts of the board, in a bank or banks approved by the board or the director, designated "State Board of Health Fee Revenue Loan Fund";

(2) the sum of nine hundred thousand dollars (\$900,000) per fiscal year to the Public Health Fund;

(3) the sum of six hundred thousand (\$600,000) per fiscal year to the State Health Building and Local Grant Trust Fund;

(4) any balance remaining shall be distributed fifty percent (50%) to the Public Health Fund and fifty percent (50%) to the State Health Building and Local Grant Trust Fund.

(c) Commencing July 1, 1991, and so long as the loan shall be outstanding, all funds held in the Revenue Fund, the Revenue Loan Fund and the Construction Fund shall be deemed to be cash funds, shall not be deposited in the State Treasury and shall be transferred, deposited and applied, as set forth herein, without the necessity of appropriation. All transfers from the Revenue Fund and the Construc-

tion Fund shall be made by the director. All transfers from the Revenue Loan Fund shall be made by the director or, with the approval of the director or the board, the authority.

(d) So long as the loan is outstanding, funds held in the Revenue Loan Fund shall be used solely for the purpose of paying and providing for principal of, interest on and servicing fees, if any, in connection with the loan and providing for the creation and maintenance of necessary reserves.

(e) So long as the loan is outstanding, all fees shall be imposed and all fee revenues shall be collected and applied as provided in this act; provided, however, particular fees may be reduced or eliminated so long as remaining fees are increased or new fees are added to the end that the aggregate annual amount of fee revenues shall always equal at least nine hundred thousand dollars (\$900,000).

SECTION 8. The proceeds of the loan, other than amounts required to establish required reserves, to pay interest on the loan for a period not to exceed one (1) year or to pay costs of the loan (all of which shall be set forth in written directions executed by the director) shall be deposited, as cash funds, in an account of the board designated "State Board of Health 1991 Building Expansion Construction Fund" and disbursed by the director for the construction of the expansion.

SECTION 9. All moneys held at any time in the Revenue Fund, the Revenue Loan Fund and the Construction Fund shall, to the extent feasible, be invested and reinvested, as directed by the director, in direct obligations of or obligations fully guaranteed by the United States of America ("Government Obligations") or, with the approval of the authority, in mutual funds composed entirely of Government Obligations.

SECTION 10. The authorizing resolution, and each agreement or other writing executed and delivered pursuant to it or this act, together with this act, shall constitute a contract between the board and the authority, and the obligations of the board may be enforced by mandamus or other equitable or legal remedy. The obligations of the board shall be freely assignable by the authority, provided that the board is notified in writing of any such assignment.

SECTION 11. Neither the director nor any member of the board shall be personally liable on the loan or on account of any of the obligations or action undertaken in connection therewith or for any damages sustained by anyone with respect to any such obligations or action, unless he or she shall have acted with a corrupt intent.

SECTION 12. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the

provisions of this act are declared to be severable.

SECTION 14. All laws and parts of laws in conflict herewith, including, without limiting the generality of the foregoing, Act 469 of 1965 (other than Section 10 thereof), Act 686 of 1977 and Ark. Code Ann. 20-7-203(c), are hereby repealed to the extent of such conflict.

SECTION 15. It is hereby found and determined by the General Assembly that the Arkansas Department of Health is critically in need of additional space and that, accordingly, the expansion, which is authorized and enabled by this act, must be constructed as soon as feasible. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

14. 1995 NEW REVENUE DIVISION BUILDING ACT — ACTS 1995, No. 725, AS
AMENDED BY ACTS 1997, No. 250.

SECTION 1. This act may be referred to and cited as the “1995 New Revenue Division Building Act.”

SECTION 2. Section 7(c) of Act 749 of the General Assembly of the State of Arkansas for the year 1977, is hereby amended to read as follows:

“(c) After the principal of, premiums, if any, and interest on all bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund and in the Bond Fund and all moneys received from the fees shall be deposited in the 1995 New Revenue Division Building Fund created by the 1995 New Revenue Division Building Act for payment of bonds to be issued pursuant to the 1995 New Revenue Division Building Act.”

SECTION 3. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) “Act No. 38” means Act No. 38 of the First Extraordinary Session of the General Assembly of the State of Arkansas for the year 1961, approved September 8, 1961, as amended.

(b) “Act No. 749” means Act No. 749 of the General Assembly of the State of Arkansas for the year 1977, as originally approved March 27, 1977.

(c) “Agency” or “Agencies” means any agency, board, officer, commission, department, division or institution of the State of Arkansas.

(d) “Arkansas Development Finance Authority Act” means Act 1062 of the General Assembly of the State of Arkansas for the year 1985, approved May 1, 1985, as amended.

(e) “Authority” means the Arkansas Development Finance Authority.

(f) “Bonds” means any bonds and any series of bonds authorized by and issued pursuant to the provisions of this act.

(g) “Buildings” means the Joel Y. Ledbetter Revenue Department Building constructed and financed under the provisions of Act No. 38 and Act No. 749, any additional buildings previously constructed pursuant to the provisions of Acts No. 38 or 749, and any additional

building or buildings or improvements or additions to be constructed for use by the department and authorized pursuant to the provisions of this act.

(h) "Commission" means the Arkansas Revenue Department Building Commission, established by Act No. 38.

(i) "Construct" means to acquire, construct, reconstruct, remodel, install and equip any lands, buildings, structures, improvements, or other property, real, personal or mixed, useful in connection with the buildings, and to make other necessary expenditures in connection therewith, by such methods and in such manner as the commission shall determine to be necessary or desirable to accomplish the authorities, powers and purposes set forth in this act. This act shall be the sole authority needed and it shall not be necessary to comply with other laws pertaining to the acquiring, constructing and equipping of public buildings.

(j) "Department" means the Department of Finance and Administration of the State of Arkansas, or any successor agency.

(k) "Division" means the Revenue Division of the department.

(l) "Expansion" means additional buildings, extensions, or improvements to the buildings, appropriate remodeling of and improvements to the buildings, and appropriate equipment and furnishings for use in the buildings, all as determined by the commission for the principle use of the department.

(m) "Fee Revenues" means all revenues derived from the fees.

(n) "Fees" means the fees provided for in Arkansas Code Section 27-14-602 which have been previously imposed and are paid to or for the benefit of the commission.

(o) "Loans" means one or more loans from the authority to the commission used to construct the expansion as permitted in Section 9 hereof.

(p) "Pledged Revenues" means all revenues authorized by Section 10 of this act to be pledged for the security and payment of the loans and the bonds, being fee revenues and gross revenues derived from leasing or rental of space in the buildings.

SECTION 4. In addition to authorities, powers and purposes otherwise set forth in this act in Act No. 38 and in Act No. 749, the Arkansas Revenue Department Building Commission is hereby authorized and empowered to:

(a) Construct the expansion.

(b) Arrange for the housing in the buildings and the expansion of the division and other offices of the department and other agencies as space and facilities may permit from time to time and with reference to other agencies to rent, lease or otherwise make available space upon such terms and conditions and for such rents and charges, if any, as the commission may determine.

(c) Construct parking facilities related to the buildings or the expansion.

(d) Obtain the necessary funds for accomplishing its authorities,

powers and purposes through loans from the authority or from other appropriate sources.

(e) Purchase, lease or rent and receive bequests or donations of, or otherwise acquire and sell, trade or barter, any property (real, personal or mixed) and convert into money and/or other property and property not needed or which cannot be used in its then current form.

(f) Establish accounts in one or more banks, and thereafter from time to time make deposits in and withdrawals from such accounts.

(g) Contract and be contracted with.

(h) Apply for, receive, accept and use any moneys and property from the Government of the United States or of any state, political subdivision or agency or from any public or private corporation, agency or organization of any nature, or from any individual.

(i) Invest and reinvest any of its moneys not required for immediate use, including proceeds from the sale of any bonds, in such manner as the commission shall determine, subject to any agreement with the authority or with bondholders stated in the authorizing resolution or trust indenture relating to such bonds.

(j) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the authorities, powers and purposes conferred by this act and to carry out the intent of this act.

SECTION 5. (a) In addition to the authorities, powers and purposes conferred by this act, the authorities, powers and purposes conferred by, and the provisions of Act No. 38 and Act. No. 749, except as they may be inconsistent with any of the provisions of this act, are hereby confirmed, ratified, continued and reenacted, including, without limitation, the provisions of Act No. 38 and Act No. 749 pertaining to organization of the commission, and meetings of the commission. Members of the Commission may receive expense reimbursement in accordance with Arkansas Code 25-16-901 et seq.

(b) This act shall constitute the sole authority necessary for the accomplishment of the authorities, powers and purposes of this act. The authorities, powers and purposes of this act may be exercised by or on behalf of the commission without necessity of approval by any other branch, department, agency, or officer of the State of Arkansas, and without compliance with any other act or law pertaining to such authorities, powers and purposes.

SECTION 6. The buildings and the expansion, after completion, shall house all or such part of the division and the department as the commission shall determine. In addition, the buildings and expansion may house such other agencies as space and facilities will permit from time to time, as determined by the commission.

SECTION 7. Ark. Code Ann. § 27-14-606 is amended to read as follows:

“(a) All fees collected under § 27-14-602 shall be deposited in the 1995 New Revenue Division Building Fund as cash funds and shall be used for the repayment of bonds which may be issued by or for the benefit of the Arkansas Revenue Department Building Commission

pursuant to the 1995 New Revenue Division Building Act.

(b) All fees collected by the circuit clerk and recorder as required by this chapter shall not be affected by the provisions of this section."

SECTION 8. (a) Fee Revenues, as and when received by the commission, are hereby declared to be cash funds of the commission, and shall not be deposited in the Treasury, but shall be deposited in a bank or banks, as determined by the commission. The Fee Revenues shall be collected and applied as in this act provided until the principal of, premiums, if any, and interest on all loans from the authority and bonds issued under this act shall be paid or the required provision made for their payment; provided, however, particular fees may be varied as to amount or new fees substituted or added so long as there is no reduction in gross Fee Revenues that would have been collected had there been no such change, substitution or addition, and the term "Fee Revenues" includes the revenues derived from all such fees.

(b) There is hereby created a fund which shall be designated "1995 New Revenue Division Building Fund" (the "Building Fund") which shall be maintained by the commission in such depository bank or banks as may from time to time be designated by the commission. Commencing on the effective date of this act, there shall be deposited into the Building Fund all moneys received by the commission from any other source whatever, including, without limitation, fee revenues and revenues derived from leasing or renting of space in the buildings or the expansion, subject however, to any prior pledge of such Fee Revenues by the commission for the payment of previously issued bonds.

(c) All moneys in the Building Fund shall be used solely, and in the order of priority, as follows:

(1) To provide for payment of debt service on all loans from the authority and bonds issued under this act, and to fund any other fund or account created pursuant to the authorizing resolution or trust indenture relating to any such loans or bonds.

(2) Any funds deposited in the Building Fund and not required in any fiscal year to be applied to any loans or series of bonds pursuant to Section 8(c)(1) may be withdrawn from the Building Fund and deposited in the State Treasury (and there credited to the Constitutional and Fiscal Agencies Fund).

(3) All loans or bonds issued pursuant to the provisions of this act shall rank on a parity of security as to the amounts deposited in the Building Fund.

(d) After the principal of, premiums, if any, and interest on all loans or bonds are fully paid, or the required provision made for their payment, all moneys then remaining in the Building Fund, and in any fund established with respect to any series of bonds, and all moneys received from the fees shall be deposited in the State Treasury, as special revenues, and by the State Treasurer credited to the Constitutional and Fiscal Agencies Fund.

SECTION 9. (a) The commission is hereby authorized and empowered to cooperate and contract with the authority to cause the authority

to issue bonds, at one time or in series from time to time, and to loan the net proceeds of such bonds to the commission to enable the commission to use such proceeds thereof, together with any other available funds, for defraying the costs of constructing the expansion together with all expenses incidental to and reasonably necessary in connection therewith. The commission is authorized to negotiate the repayment of the loans on such terms and conditions as are mutually acceptable to the commission and the authority. The commission is specifically authorized and permitted to pledge and assign to the authority, to secure repayment of the loans and the bonds, the fee revenues and revenues from leasing space in the buildings and the expansion.

(b) The bonds shall be issued by the authority under and subject to the Arkansas Development Finance Authority Act, which shall govern the terms, provisions and manner of issuance of such bonds.

SECTION 10. The principal of, premiums, if any, interest on, and trustee's and paying agent's fees in connection with all bonds authorized under this act may be secured by a pledge of and lien on the loan repayment obligation of the commission to include its pledge of the Fee Revenues and the gross revenues derived from the leasing or renting to others of space in the buildings and the expansion.

SECTION 11. All agencies are hereby expressly authorized to execute and enter into agreements with the commission for the leasing or renting of space in the buildings and the expansion when there is space therein over and above the requirements of the department and the divisions thereof. Such agreements may be upon such conditions, for such terms, for such amounts, and containing such other provisions as may be determined by the commission and the agency involved to be appropriate and in the best interests of all concerned. All such agreements and all covenants and agreements therein contained on the part of the parties thereto shall be binding in all respects upon the parties thereto and their successors from time to time, including any successor agency performing the functions exercised by the agency executing the agreement, in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity. Neither the commission nor any agency shall be required to obtain the approval of or consent to any such lease from Arkansas State Building Services. In its discretion, the commission may consult or contract with State Building Services in such leasing activities.

SECTION 12. Each loan agreement, note, authorizing resolution or trust indenture shall, together with this act, constitute a contract by and between the authority, the commission and the holders and registered owners of the bonds authorized hereunder, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict accordance with the terms and provisions thereof and the covenants, agreements and obligations of the authority and the commission may be enforced by mandamus or other appropriate proceedings of law or in equity.

SECTION 13. The commission is hereby authorized to employ architects to prepare plans, specifications and estimates of cost for the construction of the expansion and to supervise and inspect such construction. In addition, the commission is hereby authorized to engage and pay such professional, technical and other help as it shall determine to be necessary or desirable in assisting it effectively to carry out the authorities, powers and purposes conferred and imposed by this act. The commission shall consult with State Building Services with respect to the construction of the expansion.

SECTION 14. This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

SECTION 15. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 17. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 18. EMERGENCY. It is hereby found and determined by the General Assembly that since 1977 tax collection, driver's services, motor vehicle registration and other duties imposed by law upon the Revenue Division have substantially increased; that the building housing the Revenue Division of the Department of Finance and Administration is no longer adequate to allow the Revenue Division to properly and efficiently to carry out its functions and duties; that services provided to taxpayers may be improved and expanded with the construction and use of an additional building; and, that this act is designed to alleviate the stated problems. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval. APPROVED: March 21, 1995.

15. HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS — ACTS 1995, No. 1007.

SECTION 1. TITLE; LEGISLATIVE FINDINGS. (a) This Act may be referred to and cited as the "Arkansas Highway General Obligation Bond Act of 1995."

(b) The General Assembly of the State of Arkansas has determined that there is an immediate need for new highways and highway improvements throughout the State of Arkansas in order to provide for

the health, safety and welfare of its citizens and others and to promote economic development within the state. The General Assembly has determined that current funding sources for highway construction and improvements are inadequate to meet the needs of the state and that the best way to accomplish such improvements expeditiously is through the issuance of general obligation bonds to finance highway construction and improvements.

SECTION 2. DEFINITIONS. The following terms, as used in this Act, shall have the meanings set forth in this section:

(a) "Act" shall mean this Arkansas Highway General Obligation Bond Act of 1995.

(b) "Bonds" shall mean the State of Arkansas Highway Construction and Improvement General Obligation Bonds, as authorized herein.

(c) "Chief Fiscal Officer" shall mean the Director of the Department of Finance and Administration.

(d) "Commission" shall mean the Arkansas State Highway Commission, created and existing pursuant to Amendment 42 to the Constitution of the State of Arkansas.

(e) "Debt service" shall mean all amounts required for the payment of principal of, interest on, and premium, if any, due with respect to the bonds in any fiscal year, along with all associated costs, including, without limitation, the fees and costs of paying agents and trustees, and remarketing agent fees.

(f) "Designated tax revenues" shall mean

(1) portions of taxes collected pursuant to Ark. Code Ann. § 26-57-1101, et seq;

(2) taxes collected pursuant to Ark. Code Ann. §§ 26-52-302(c) and 26-53-107(c);

(3) portions of taxes collected pursuant to Ark. Code Ann. § 26-56-201(e), if approved;

(4) revenues derived from economic growth within Arkansas which is a direct result of highway improvements which are financed by the bonds issued pursuant to this Act; or,

(5) any other fees or taxes which are dedicated to the repayment of the bonds, including but not limited to toll road fees and right-of-way lease revenues.

(g) "Highway improvements" shall mean improvements to any of the roadways, bridges, tunnels, rights-of-way, and other capital improvements and facilities appurtenant or pertaining thereto, including costs of acquisition and construction. Highway improvements shall also include the maintenance of highway improvements constructed with proceeds of the bonds.

SECTION 3. AUTHORIZATION; PURPOSES. The Arkansas State Highway Commission is hereby authorized, subject to the approval of the voters at a state-wide election pursuant to Amendment 20 to the Constitution of the State of Arkansas, to issue the bonds in a total principal amount not to exceed three billion five hundred million dollars (\$3,500,000,000) for the purposes of (i) accelerating highway improve-

ments in progress or scheduled as of January 1, 1995, (ii) funding new highway improvements not in progress or scheduled as of January 1, 1995, (iii) providing matching funds in connection with federal highway programs, and (iv) paying the costs of issuance of the bonds. The bonds may be issued in one or more series at such times, in such amounts, and bearing such designations as the Commission in consultation with the Chief Fiscal Officer of the State shall determine pursuant to Section 6 hereof.

SECTION 4. IMPROVEMENTS TO BE FINANCED. At least ninety (90) days prior to the calling of an election as set forth in Section 5 hereof, the Commission shall prepare and distribute to the Governor and the Legislative Council a report setting forth in general terms the highway improvements which would be financed if all of the authorized bonds were to be issued and the estimated cost of each highway improvement. Upon receipt of the report described in the preceding sentence, the Governor, after obtaining the advice of the Legislative Council and in accordance with the provisions of Amendments 20 and 42 to the Arkansas Constitution, shall, if he deems it to be in the public interest, by proclamation call an election on the question of issuing the bonds.

SECTION 5. ELECTION. (a) No bonds shall be issued under this Act unless the issuance of bonds has been approved by a majority of the qualified electors of the state voting on the question at a state-wide election called by proclamation of the Governor. Such election may be in conjunction with a general election or it may be a special election. Notice of such election shall be published by the Secretary of State in a newspaper of general circulation in the state at least thirty (30) days prior to such election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to such election.

(b) It shall not be necessary, in the case of the notice or proclamation for the election, to publish this Act in its entirety, but the notice or proclamation shall state that the election is to be held for the purpose of submitting to the people the following proposition, in substantially the form set forth herein:

“Authorizing the Arkansas State Highway Commission to issue State of Arkansas Highway Construction and Improvement General Obligation Bonds (the “Bonds”) in a total principal amount not to exceed \$3,500,000,000. If approved, such Bonds will be issued in series of various principal amounts from time to time for the purpose of paying the cost of highway construction and improvements in the State of Arkansas. The Bonds shall be issued pursuant to the authority of and the terms set forth in Amendment 20 to the Arkansas Constitution and the Arkansas Highway General Obligation Bond Act of 1995 (the “Act”).

The Bonds shall be general obligations of the State of Arkansas, secured by and payable from the general revenues of the State. The Bonds will be payable first from certain designated revenues, specifically: portions of the proceeds of a five cent per gallon increase in the

excise tax on distillate special fuels (diesel and other related products), if such tax increase is approved by the voters, revenues derived from an additional one-half of one percent ($\frac{1}{2}$ of 1%) excise tax on gross proceeds or gross receipts (sales tax) and from an additional one-half of one percent ($\frac{1}{2}$ of 1%) compensating excise tax (use tax), portions of the proceeds of a wholesale excise tax at the rate of six and one-half percent on motor fuel (gasoline and related products); revenues derived from economic growth directly attributable to highway improvements financed by the bonds; and any other revenues designated by the General Assembly for such purpose.

The wholesale excise tax on motor fuel, the sales tax and the use tax have already been levied, but such taxes will not be collected unless the bonds are hereby approved by the voters. If the bonds are hereby approved, the wholesale excise tax on motor fuel, the sales tax and the use tax will be collected so long as the bonds are outstanding. If the bonds are not hereby approved, such taxes will not be collected. The excise tax of five cents per gallon on distillate special fuels is being submitted to the voters for their approval elsewhere on this ballot."

(c) The ballot title and the proposition set forth in Section 5(b) shall be submitted by the Secretary of State to the Attorney General for approval in substantially the following form:

**"ISSUANCE OF \$3,500,000,000 STATE OF ARKANSAS HIGHWAY
CONSTRUCTION AND IMPROVEMENT GENERAL OBLIGATION
BONDS"**

On each ballot there shall be printed the title, the proposition set forth in Section 5(b) hereof, and the following:

"For issuance of State of Arkansas Highway Construction and Improvement General Obligation Bonds in an amount not to exceed \$3,500,000,000 ... []"

"Against issuance of State of Arkansas Highway Construction and Improvement General Obligation Bonds in an amount not to exceed \$3,500,000,000 ... []"

(d) The county boards of election commissioners in each of the several counties of the state shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as is required by the laws of the state. The vote shall be canvassed and the result thereof declared in each county by such boards. The results shall, within ten (10) days after the date of the election, be certified by such county boards to the Secretary of State, who shall forthwith tabulate all returns so received and certify to the Governor the total vote for and against the proposition submitted pursuant to this Act.

(e) The result of the election shall be proclaimed by the Governor by the publication of such proclamation one (1) time in a newspaper of general circulation in the State of Arkansas, and the results as

proclaimed shall be conclusive unless a complaint challenging the election results is filed within thirty (30) days after the date of such publication in the chancery court of Pulaski County.

(f) If a majority of the qualified electors voting on the proposition vote in favor of the issuance of the bonds, then the Commission shall proceed with the issuance of bonds in the manner and on the terms set forth in this Act. If a majority of the qualified electors voting on the proposition vote against the issuance of the bonds, none of the bonds authorized by this Act shall be issued. One subsequent election may be called by the Governor if the proposition fails, but such subsequent election may be held no earlier than six (6) months after the preceding election, but no later than December 31, 1996.

SECTION 6. PROCEDURE FOR ISSUING BONDS. Prior to the issuance of any series of bonds, the following actions shall be taken:

(a) The Commission shall, in consultation with the Chief Fiscal Officer, determine the estimated amount of designated tax revenues to be collected by the state in the remainder of the then current fiscal biennium. The estimated amount of designated tax revenues shall be reported to the Governor.

(b) The Commission shall present a report to the Governor and the Legislative Council, setting forth the specific highway improvements to be financed with the proceeds of such series of bonds, the estimated cost of each of the highway improvements, the amount of bonds necessary to finance such highway improvements, and the estimated amount of debt service required to pay the bonds.

(c) Upon receipt of the reports described in Sections 6(a) and 6(b) hereof, the Governor shall, if he and the Commission determine that the estimated designated tax revenues and any other revenues appropriated by the General Assembly for repayment of bonds will be sufficient to pay debt service on such series of bonds, by proclamation authorize the Commission to proceed with the issuance of such series of bonds.

(d) Once the Governor has issued his proclamation with respect to one or more series of bonds, the Commission shall adopt a resolution authorizing the issuance of such bonds. Each such resolution shall contain such terms, covenants, and conditions as are deemed desirable and consistent with this Act, including, without limitation, those pertaining to the establishment and maintenance of funds and accounts, the deposit and investment of tax collections and of bond proceeds, and the rights and obligations of the state, its officers and officials, the Commission, and the registered owners of the bonds. The resolutions of the Commission may provide for the execution and delivery by the Commission of a trust indenture or trust indentures, with one or more banks or trust companies located within or without the state, containing any of the terms, covenants, and conditions referred to above and other terms and conditions deemed necessary by the Commission, which trust indenture or trust indentures shall be binding upon the Commission and the State, and their respective

officers and officials.

SECTION 7. TERMS OF BONDS. The bonds shall be subject to the following terms and conditions:

(a) The bonds shall be issued in series, as set forth herein, in amounts sufficient to finance all or part of the costs of highway improvements described in Section 4 hereof, with the respective series to be designated by the year in which issued and, if more than one series is to be issued in a particular year, by alphabetical designation.

(b) The bonds of each series shall have such date or dates as the Commission shall determine and shall mature, or be subject to mandatory sinking fund redemption, over a period ending not later than thirty (30) years after the date of issue of each series.

(c) The bonds of each series shall bear interest at the rate or rates determined by the Commission at the sale of the bonds. The bonds may bear interest at either a fixed or a variable rate, or may be convertible from one interest rate mode to another, and such interest shall be payable at such times as the Commission shall determine.

(d) The bonds shall be issued in the form of bonds registered as to both principal and interest without coupons; may be in such denominations; may be made exchangeable for bonds of another form or denomination, bearing the same rate of interest; may be made payable at such places within or without the state; may be made subject to redemption prior to maturity in such manner and for such redemption prices; and may contain such other terms and conditions, all as the Commission shall determine.

(e) Each bond shall be executed with the facsimile signatures of the Governor, the Chairman of the Commission, and the Treasurer of the State of Arkansas, and shall have affixed or imprinted thereon the Great Seal of the State of Arkansas. Delivery of the bonds so executed shall be valid, notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

SECTION 8. SALE OF BONDS. (a) The bonds may be sold in such manner, either at private or public sale, and upon such terms as the Commission shall determine to be reasonable and expedient for effecting the purposes of this Act. The bonds may be sold at a price acceptable to the Commission, which price may include a discount or a premium.

(b) If the bonds are to be sold at public sale, the Commission shall give notice of the offering of such bonds in a manner reasonably designed to notify the public finance industry that such offering is being made. The Commission shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(c) The Commission is authorized to structure the sale of bonds utilizing such financing techniques as are recommended by its professional advisors in order to take advantage of market conditions and obtain the most favorable interest rates consistent with the purposes of this Act. In furtherance of this authorization, the Commission may enter into such ancillary agreements in connection with the sale of the bonds as it deems necessary and advisable, including, without limita-

tion, bond purchase agreements, remarketing agreements, and letter of credit and reimbursement agreements.

SECTION 9. EMPLOYMENT OF PROFESSIONALS. The Commission is authorized to retain such professionals as it deems necessary to accomplish the issuance and sale of the bonds, including, without limitation, legal counsel, financial advisors, underwriters, trustees, paying agents and remarketing agents.

SECTION 10. INVESTMENT OF PROCEEDS. The proceeds from the issuance of the bonds shall, prior to expenditure of such proceeds for the purposes described in this Act, be held, maintained, and invested by the trustee as set forth in a resolution of the Commission or as set forth in any trust indenture securing the bonds.

SECTION 11. GENERAL OBLIGATION. (a) All bonds issued under this Act shall be direct general obligations of the State of Arkansas, for the payment of the debt service on which the full faith and credit of the State of Arkansas are hereby irrevocably pledged so long as the bonds are outstanding. The bonds shall be payable from the 1995 Arkansas Highway Construction and Improvement Bond Account and general revenues of the state as that term is defined in the Revenue Stabilization Law of Arkansas, Ark. Code Ann. § 19-5-101 et seq., and such amount of general revenues as is necessary is hereby pledged to the payment of debt service on the bonds, and shall be and remain pledged for those purposes.

(b) This Act shall constitute a contract between the State of Arkansas and the registered owners of all bonds issued hereunder which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, may be enjoined by the Chancery Court of Pulaski County upon the complaint of any bond owner or any taxpayer. The court shall, in any suit against the Commission, the State Treasurer, or other appropriate officer or official of the state, prevent a diversion of any funds pledged in accordance with this Act and shall compel the restoration of diverted funds, by injunction or mandamus. Also, and without limitation as to any other appropriate remedy at law or in equity, any bond owner may, by an appropriate action, including, without limitation, injunction or mandamus, compel the performance of all covenants and obligation of the State, its officers and officials, hereunder.

(c) This Act shall not create any right of any character with respect to the bonds and no right of any character with respect to the bonds shall arise under or pursuant to it, unless and until the first series of bonds authorized by this Act shall have been sold and delivered.

SECTION 12. SOURCES OF REPAYMENT. (a) Without in any way limiting the general obligation of the State of Arkansas to repay the bonds, the designated tax revenues (as such term is defined in Section 2 hereof) are hereby specifically pledged to the payment of the debt service on the bonds.

(b) Pursuant to certain acts of the 80th General Assembly, the State Treasurer has been authorized to establish in the State Highway and

Transportation Department Fund a special account, known as the "1995 Arkansas Highway Construction and Improvement Bond Account," and shall deposit therein all designated tax revenues. In addition, pursuant to certain acts of the 80th General Assembly, the State Treasurer has been authorized to establish in the State Highway and Transportation Department Fund a special account, known as the Highway Resurfacing and Rehabilitation Account. The Commission is authorized to pledge to the repayment of the bonds the full faith and credit of the State, as provided in Section 11 of this Act, and to grant a lien upon the funds on deposit in the 1995 Arkansas Highway Construction and Improvement Bond Account and the Highway Resurfacing and Rehabilitation Account in the State Highway and Transportation Department Fund.

(c) On or before commencement of each fiscal year, the Commission in consultation with the Chief Fiscal Officer shall determine the estimated amount required for payment of debt service due on each series of bonds issued and outstanding under this Act during such fiscal year, and shall certify such estimated amount to the State Treasurer. The State Treasurer shall then make transfers from the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to the trustees for each series of bonds, in such amounts and at such times as shall be specified in the indentures, to pay the maturing debt service on each series of bonds issued and outstanding under this Act. The State Treasurer shall make such additional transfers as the Commission shall certify as being required under the indentures to enable the Commission to establish and thereafter maintain with the trustee for each series of bonds a reserve or reserves for payment of debt service on each series of bonds. Upon certification from the Commission, the State Treasurer may also make transfers of designated amounts from the Highway Resurfacing and Rehabilitation Account in the State Highway and Transportation Department Fund to the trustees or to the 1995 Arkansas Highway Construction and Improvement Bond Account for payment of debt service due on each series of bonds issued and outstanding.

(d) The obligation to make transfers from the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund for the payment of debt service on, and, if applicable, a reserve for, each series of bonds shall constitute a first charge against amounts on deposit therein. Funds on deposit in the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund in excess of the amounts required to pay debt service on the bonds and for a reasonable reserve may be used for highway improvements of the Commission, as defined in this Act, and for the redemption of bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity, as set forth in the trust indentures authorizing or securing each series of bonds.

(e) In the event that there are insufficient amounts in the 1995

Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to pay the debt service on bonds issued and outstanding under this Act, or to fund any necessary reserves at the required level, the State Treasurer shall, to the extent permitted by law, transfer additional amounts thereto from the general revenues of the State.

(f) Prior to the beginning of each fiscal biennium, the Chief Fiscal Officer of the State shall determine the portion of revenues attributable to economic growth within Arkansas which is a direct result of highway improvements which are financed by the bonds issued pursuant to this act and certify such amount to the Governor. If such revenues are appropriated by the General Assembly for repayment of bonds, the Treasurer of the State shall then transfer that amount from general revenues to the 1995 Arkansas Highway Construction and Improvement Bond Account.

SECTION 13. INVESTMENT OF REVENUES. Any moneys held in the 1995 Arkansas Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund and any fund in the State Treasury created under this Act shall be invested by the State Board of Finance to the full extent practicable pending disbursement for the purposes intended. Notwithstanding any other provision of law, such investments shall be in accordance with the terms of the resolution or trust indenture authorizing or securing the series of bonds to which said fund appertains to the extent the terms of such resolution or trust indenture are applicable.

SECTION 14. REFUNDING BONDS. (a) The Commission may issue bonds for the purpose of refunding bonds previously issued pursuant to this Act, provided, however, that the total amount of bonds outstanding after the refunding is completed does not exceed the total amount authorized by this Act.

(b) Such refunding bonds shall be general obligations of the State of Arkansas, secured as set forth herein, and shall be secured and sold in accordance with the provisions of this Act.

SECTION 15. TAX EXEMPTION. All bonds issued under this Act, and interest thereon, shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes as well as income tax on any profit from the sale of the bonds at a profit. The bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of municipal, county, bank, fiduciary, insurance company and trust funds.

SECTION 16. POWERS OF COMMISSION. All powers granted to the Commission pursuant to this Act shall be deemed in addition to such powers as already exist pursuant to Amendment 42 to the Arkansas Constitution and the laws of the State of Arkansas. No member of the Commission shall be liable personally for any reason arising from the issuance of bonds pursuant to this Act unless such person shall have acted with corrupt intent.

SECTION 17. Ark. Code Ann. § 27-70-209 is hereby repealed.

SECTION 18. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 20. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 21. EMERGENCY. (Failed to be adopted) It is hereby found and determined by the General Assembly that there is an immediate need for the construction and repair of highways and roads within the State of Arkansas and that such a program cannot be accomplished without the issuance of bonds to finance the program. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after the passage and approval. **APPROVED:** April 7, 1995.

16. ARKANSAS WATER, WASTE DISPOSAL AND POLLUTION ABATEMENT FACILITIES FINANCING ACT OF 1997 — ACTS 1997, No. 607.

Publisher's Notes. The question in Acts 1997, No. 607, § 18, noted below, was referred to the voters in the 1998 General Election as "Referred Question No. 1" and received a majority vote in favor of the question. The Water, Waste Disposal, and Pollution Abatement General Obligation Bond Fund is codified at § 19-5-1108.

Acts 1997, No. 607, §§ 1-22, provided: "SECTION 1. This Act may be referred to and cited as the 'Arkansas Water, Waste Disposal and Pollution Abatement Facilities Financing Act of 1997'.

"SECTION 2. (a) The Arkansas Soil and Water Conservation Commission is hereby authorized to issue bonds of the State of Arkansas to be known as State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds (the 'Bonds'), in total principal amount not to exceed Three Hundred Million Dollars (\$300,000,000), for the purposes set forth herein. The Bonds may be issued in one or more series as required subject to the conditions and in compliance with the procedures set forth herein.

"(b) The total principal amount of Bonds to be issued during any fiscal biennium shall not exceed Sixty Million Dol-

lars (\$60,000,000), unless the General Assembly shall, by law, have authorized a greater principal amount thereof to be issued during a fiscal biennium. Provided further that, before any Bonds may be issued during any fiscal biennium the Commission shall submit to the Governor a written plan (1) setting forth the criteria to be used by the Commission in choosing (A) the Projects to be financed with the proceeds derived from the sale of the Bonds and/or (B) the programs for which funds may be provided by the Commission to finance Projects, and (2) requesting authorization for the projected maximum principal amount of Bonds required to be issued in such fiscal biennium. Upon receipt thereof, the Governor shall confer with the Chief Fiscal Officer of the State concerning whether the annual amount of general revenue funds required to be set aside from the General Revenues of the State, as such term is used in the Revenue Stabilization Law of Arkansas, for payment of debt service requirements in connection with the Bonds during either year of the fiscal biennium in which the Bonds are to be issued, would require moneys from the General Revenues of the State

that would work undue hardship upon any agency or program supported from the General Revenues of the State under the provisions of the Revenue Stabilization Law of Arkansas.

“(c) Upon conclusion of such studies, and after obtaining the advice of the Legislative Council thereon, the Governor shall, if he deems the same to be in the public interest, by proclamation, authorize the Commission to proceed with the issuance of the Bonds, in one or more series, up to the maximum principal amount for the fiscal biennium approved by the Governor.

“(d) If the Governor shall decline or refuse to give his approval for the issuance of such Bonds by declining to issue a proclamation approving the issuance, the Governor shall promptly notify the Commission, in writing, and such Bonds shall not be issued. But the Commission may resubmit a request to the Governor for the approval of the issuance of the Bonds. The issue as resubmitted to the Governor shall be dealt with in the same manner as provided for the initial request for authority to issue the Bonds.

“SECTION 3. The Commission may contract with the Authority (1) to act as servicer of any loans made to, or of bonds purchased from, any Local Entities or (2) to perform any other administrative service, activity, undertaking or function of the Commission in connection with the issuance and sale of a particular series of the Bonds. The Commission is authorized to pay the Authority for any services provided by the Authority. Any contract shall be authorized by independent resolutions of the Commission and the Authority.

“SECTION 4. In this Act, unless the context otherwise requires,

“(a) ‘Authority’ means the Arkansas Development Finance Authority and any successor agency or department.

“(b) ‘Commission’ means the Arkansas Soil and Water Conservation Commission, and any successor agency or department;

“(c) ‘debt service’ means principal, interest, redemption premiums, if any, and trustees’, paying agents’ and dissemination agents’ and like servicing fees relative to the Bonds;

“(d) ‘develop’ means to plan, design, construct, acquire (by purchase or, as set forth herein, by eminent domain), own, operate, rehabilitate, lease as lessor or

lessee, enter into lease-purchase agreements with respect to, lend, make grants in respect of, or install or equip any lands, buildings, improvements, machinery, equipment, or other properties of whatever nature, real, personal or mixed;

“(e) ‘drainage’ means the removal or diversion of water from lands through natural or artificial means;

“(f) ‘FDIC’ means the Federal Deposit Insurance Corporation, or any successor thereto insuring deposits of commercial banks;

“(g) ‘flood control’ means (1) drainage and flood prevention improvements for protection from water-induced damages, (2) adjustments in land use and facilities designed to reduce flood damage from overflow or backwater due to major storms and snowmelt, and (3) facilities designed to collect and convey runoff from rainfall or snowmelt to natural watercourses or previously-modified natural waterways;

“(h) ‘General Revenues of the State’ means the revenues described and enumerated in Subchapter 2 of the Revenue Classification Law of Arkansas or in any successor law;

“(i) ‘irrigation’ means the production or transportation of water for agricultural uses through artificial or natural conveyances for watering of crops or other agricultural products;

“(j) ‘Local Entity’ means any nonprofit corporation, or any county, municipality, conservation district, improvement district, drainage district, irrigation district, levee district, regional water distribution district, public facilities board, rural development authority, regional wastewater treatment district, regional solid waste management district, rural water association or school district in the State or any agency or instrumentality of any of the foregoing, or any agency or instrumentality of the State, including the Commission;

“(k) ‘Nationally recognized rating agency’ means Moody’s Investors Service, Inc., Standard & Poor’s Ratings Group, or any other nationally recognized rating agency approved by the State Investing Office;

“(l) ‘Person’ means any Local Entity or any individual, corporation, trust, limited liability company or partnership;

"(m) 'Pollution abatement' means reduction, prevention, recycling, control or elimination by appropriate methods of contamination or pollution, or other alteration of the physical, chemical or biological properties, of any land or waters of the State, or of such discharge of any liquid, gaseous or solid substance as will or is likely to create a nuisance or render any land or waters of the State harmful or detrimental or injurious to public health, safety or welfare of individuals, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life;

"(n) 'Prior Acts' means, collectively, Act No. 496 of 1981, as now or hereafter amended, codified as A.C.A. § 15-22-601 et seq., and Act No. 686 of 1987, as now or hereafter amended, codified as A.C.A. § 15-22-701 et seq.;

"(o) 'Project' or 'Projects' means any lands, buildings, improvements, machinery, equipment, or other property, real, personal or mixed, or any combination thereof and programs using such property, developed in pursuance of all or any of the purposes of this Act, including but not limited to the following: (1) the production, impoundment, treatment and transportation of water, (2) the collection, treatment and disposition of waste, (3) pollution abatement programs, (4) drainage or flood control facilities, (5) irrigation facilities, (6) the preservation and development of wetlands, and (7) any facilities authorized by or pursuant to the Prior Acts. Included are Projects for agricultural, administrative, research, residential, recreational, commercial and industrial purposes and Projects for the use and benefit of Local Entities, the Commission and other Persons. Included are facilities and improvements which are necessary, ancillary or related to those enumerated;

"(p) 'Project Costs' means all or any part of the costs of developing any Project, costs incidental or appropriate thereto including, without limitation, all costs to the Commission associated with the development or operation of any Project in a supervisory capacity, and costs incidental or appropriate to the financing thereof, including, without limitation, capitalized interest, costs of issuance of and appropriate reserves for the Bonds, loan or commitment fees, loan or grant administra-

tion fees and costs for engineering, legal, and other administrative and consultant services;

"(q) 'Revenue Classification Law of Arkansas' means Act No. 808 of 1973, as now or hereafter amended, codified as A.C.A. § 19-6-101 et seq.;

"(r) 'Revenue Stabilization Law of Arkansas' means Act No. 750 of 1973, as now or hereafter amended, codified as A.C.A. § 19-5-101 et seq.;

"(s) 'State' means the State of Arkansas;

"(t) 'State Apportionment Fund' means the fund by that name created by Subchapter 2 of the Revenue Stabilization Law of Arkansas or in any successor law;

"(u) 'State Investing Office' shall mean the State Treasurer for the investment of any funds established on the books of the State Treasury, and the Commission and/or the Authority for the investment of any funds held outside the State Treasury.

"(v) 'Water' means any waters of the State, including surface water and ground water;

"(w) 'Waste' means any liquid or solid produced as an undesirable byproduct of any activity; and

"(x) 'Wetlands' means land that (1) has a predominance of hydric soils, (2) is inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and (3) under normal circumstances does support a prevalence of such vegetation.

"SECTION 5. (a) The Bonds shall be issued, in series, as set forth herein, in amounts sufficient to finance or refinance all or any part of Project Costs with the respective series to be designated in alphabetical order and/or by the year in which issued.

"(b) Each series of the Bonds shall have such date as the Commission shall determine and shall mature or be subject to mandatory sinking fund redemption as determined by the Commission, over a period ending not later than thirty-five (35) years after the date of the Bonds of each series. Pending the issuance of Bonds hereunder, the Commission may issue temporary notes, maturing not more than five (5) years from the date of issuance, to be exchanged for or paid from the

proceeds of Bonds at such time as the Bonds may be issued.

“(c) Each series of the Bonds shall bear interest, whether or not subject to federal income taxation, at the rate or rates accepted by the Commission. Interest shall be payable at such times as the Commission shall determine.

“(d) The Bonds may be issued in such form; may be in such denominations; and may be made exchangeable for Bonds of another form or denomination, bearing the same rate of interest and date of maturity; may be made payable at such places within or without the State; may be made subject to redemption prior to maturity in such manner and for such redemption prices; and may contain such other terms and conditions, all as the Commission shall determine.

“(e) The Bonds shall have all the qualities of negotiable instruments or securities under the laws of the State, subject to the provision for registration of ownership.

“SECTION 6. Bonds issued under this Act shall be issued for the purpose of financing (on a temporary or permanent basis), refinancing and developing one or more Projects, and the proceeds of the Bonds shall be applied to the payment of Project Costs and the costs and expenses of issuance of the Bonds, or in connection with a Project refinancing, the repayment of indebtedness incurred to pay Project Costs or for refunding of Bonds as provided in Section 14.

“SECTION 7. (a) The Bonds shall be authorized by resolution of the Commission. Each such resolution shall contain such terms, covenants, and conditions as are deemed desirable, including, without limitation, those pertaining to the establishment and maintenance of funds and accounts, to the deposit and investment of revenues and of Bond proceeds and to the rights and obligations of the State, its officers and officials, the Commission and the registered owners of the Bonds. The resolution of the Commission may provide for the execution and delivery by the Commission of a trust indenture or trust indentures, with one or more banks or trust companies located within or without the State, containing any of the terms, covenants, and conditions referred to above, which trust indenture or trust indentures shall be binding upon the State, and its

agencies, officers and officials, to the extent set forth in this Act.

“(b) Any resolution or trust indenture adopted or executed under this Section shall provide that power is reserved to apply to the payment of debt service on the Bonds issued or secured thereunder all or any part of the revenues which may be derived from any Project financed by such Bonds or financed by the Commission or the Authority in some other manner; and, to the extent of such revenues which the Commission elects to apply to debt service, to release from any requirement of such resolution or trust indenture other revenues and resources of the State, including, without limitation, the General Revenues of the State required to be transferred under Section 12 hereof.

“SECTION 8. Each Bond shall be signed with the manual or facsimile signatures of the Governor, the Chairman of the Commission and the Treasurer of State, and shall have affixed, imprinted or lithographed thereon the Great Seal of the State. Interest coupons attached to the Bonds, if any, shall be signed with the facsimile signature of the Treasurer of State. Delivery of the Bonds and coupons so executed shall be valid, notwithstanding any change in persons holding such offices occurring after the Bonds have been executed.

“SECTION 9. The Bonds may be sold in such manner, either at public or private sale, and upon such terms as the Commission shall determine to be reasonable and expedient for effectuating the purposes for which the Commission was created. The Bonds may be sold at the price the Commission determines acceptable, including sale at a discount. The Commission may employ administrative agents, fiscal agents, underwriters, architects, accountants, engineers and legal counsel and may pay them reasonable compensation from the proceeds of the Bonds. The fees of any trustee or paying agent, as well as the costs of publication of notices and of printing of the Bonds, official statements and other documents relating to the sale of the Bonds, the fees of any rating agency and other reasonable costs of issuing and selling the Bonds incurred by the Commission and the Authority may be paid from the proceeds of the Bonds.

“SECTION 10. (a) The proceeds from the sale of the Bonds, together with all

revenues derived by the Commission (i) from any Project financed or refinanced under this Act and appropriated, allocated or otherwise set aside by the Commission for the payment of the Bonds and (ii) from any other Project and appropriated, allocated or otherwise set aside by the Commission for the payment of the Bonds, shall be deposited by the recipient thereof, as received, into trust funds either established in the State Treasury, or into accounts established outside the State Treasury in the name of the Commission or the Authority, to accomplish the purposes of this Act, in amounts or portions as set forth in the resolution or trust indenture authorizing or securing the Bonds issued to finance or refinance the development of Projects. There is hereby established as a trust fund in the State Treasury an account designated as the Water, Waste Disposal and Pollution Abatement Facilities Bond Fund (the 'Bond Fund'), which is being created to provide for payment of all or a part of the debt service on Bonds issued under this Act.

"The Treasurer of the State is authorized and directed to establish separate accounts and subaccounts within the Bond Fund to correspond to the applicable series of Bonds. In addition, there may be created in the State Treasury such other funds, accounts or subaccounts as the Commission may determine to be necessary to accomplish the purposes of this Act.

"(b) All procedures and methods for the application of proceeds of any series of Bonds to the financing or refinancing of Project Costs shall be set forth in writing, which writings shall be maintained as a part of the records of the Commission. Such procedures and methods may include, but are not limited to, the following:

"(1) Development of Projects to be owned, operated and maintained by the Commission;

"(2) Grants to Local Entities and the Commission;

"(3) Loans to Local Entities or Persons or the purchase of bonds or other general or special obligation debt of Local Entities;

"(4) Development of Projects to be leased to or operated by Local Entities;

"(5) Development of Projects to be purchased, at one time or by installment purchase, by Local Entities;

"(6) Establishment of funds, including revolving funds (i.e., funds for the lending of money to Persons to be repaid into such funds) for the development of Projects;

"(7) Matching of proceeds of Bonds with moneys provided by Local Entities, or other Persons;

"(8) Matching of moneys provided pursuant to other laws, including Arkansas Code of 1987 Annotated Title 15, Chapter 22, Subchapter 5; Title 15, Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1; Title 15, Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9; and

"(9) Establishment of funds to refund or refinance Bonds issued under this Act, bonds issued under the Prior Acts and the bonds or other debt of Local Entities which were incurred for the purpose of paying Project Costs.

"(c) Any arrangements undertaken pursuant to (b), above, whereby a Local Entity will administer funds composed in whole or in part of proceeds of Bonds shall include provision for the auditing, no less frequently than annually, of such funds.

"(d) The proceeds from the sale of the Bonds, together with all revenues derived by the Commission (i) from any Project financed or refinanced under this Act or (ii) from any other Project and appropriated, allocated or otherwise set aside by the Commission for the payment of the Bonds, may be invested and reinvested by the State Investing Office in any of the following:

"(1) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America;

"(2) bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any United States government agencies provided, however, such obligations are backed by the full faith and credit of the United States of America;

"(3) senior debt obligations issued or guaranteed by United States government agencies (non-full faith and credit agencies);

"(4) money market funds investing exclusively in the investments described in clauses (1) through (3) of this subsection (d);

“(5) certificates of deposit providing for deposits secured at all times by collateral described in clauses (1) through (3) of this subsection (d). Such certificates must be issued by commercial banks whose deposits are insured by the FDIC and whose collateral must be held by a third party, and the State Investing Office, or assigns, must have a perfected first security interest in the collateral;

“(6) certificates of deposit, savings accounts, deposit accounts or money market deposits, all of which are fully insured by the FDIC;

“(7) bonds or notes issued by the State or any municipality, county or school district, community college district or regional solid waste management district in the State, or any agency or instrumentality thereof;

“(8) investment agreements with financial institutions or insurance companies which are rated in one of the two highest rating categories of a nationally recognized rating agency;

“(9) repurchase agreements providing for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the State Investing Office (buyer/lender), and the transfer of cash from the State Investing Office to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the State Investing Office in exchange for the securities at a specified date. Repurchase agreements must satisfy the following criteria:

“(A) Repurchase agreements must be between the State Investing Office and a dealer bank or securities firm described as follows:

“(i) Dealers with at least \$100 million in capital, or

“(ii) Banks whose deposits are insured by the FDIC.

“(B) The written repurchase agreement contract must include the following:

“(i) Securities which are acceptable for transfer are those listed in clauses (1) through (3) of this subsection.

“(ii) The term of the repurchase agreement may be up to 30 days.

“(iii) The collateral must be delivered to the State Investing Office, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (per-

fection by possession of certificated securities);

“(iv) Valuation of Collateral: The securities must be valued weekly, marked-to-market at current market price plus accrued interest. The value of collateral must be equal to 103% of the amount of cash transferred by the State Investing Office to the dealer bank or security firm under the repurchase agreement plus accrued interest. If the value of securities held as collateral declines below 103% of the value of the cash transferred by the State Investing Office, then additional cash and/or acceptable securities must be transferred and held by the State Investing Office; and

“(10) any other investment authorized by State law.

“SECTION 11. The Bonds shall be the direct general obligations of the State, for the payment of debt service on which the full faith and credit of the State are hereby irrevocably pledged so long as any such Bonds are outstanding. The Bonds shall be payable from the General Revenues of the State, and such amount of General Revenues of the State as is necessary is hereby pledged to the payment of debt service on the Bonds, and shall be and remain pledged for such purposes.

“SECTION 12. On or before commencement of each fiscal year, the Chief Fiscal Officer of the State shall determine the estimated amount required for payment of all or a part of the debt service on the Bonds issued under this Act during such fiscal year and deduct therefrom the estimated moneys to be available to the Commission from other sources to determine what amount of General Revenues of the State will be required. The Chief Financial Officer of the State shall certify such estimated amount to the Treasurer of State. The Treasurer of State shall then make monthly transfers from the State Apportionment Fund to the Bond Fund, of such amount of General Revenues of the State as shall be required to pay the maturing debt service on Bonds issued under this Act.

“The obligation to make monthly transfers of General Revenues of the State from the State Apportionment Fund to the Bond Fund shall constitute a first charge against such general revenues of the State prior to all other uses to which such general revenues of the State are devoted,

either under present law or under any laws that may be enacted in the future; provided however, that to the extent other general obligation bonds of the State may have been issued or may subsequently be issued, all such general obligation bonds shall rank on a parity of security with respect to payment from general revenues of the State.

"Moneys credited to the Bond Fund shall be used only for the purpose of paying debt service on the Bonds, either at maturity or upon redemption prior to maturity, and for such purposes the Treasurer of State is hereby designated Disbursing Officer to administer such funds in accordance with the provisions of this Act.

"Moneys in the Bond Fund over and above the amount necessary to insure the prompt payment of debt service on the Bonds, and the establishment and maintenance of a reserve fund, if any, may be used for the redemption of Bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity, as set forth in the resolution or trust indenture authorizing or securing the Bonds.

"SECTION 13. All Bonds issued under this Act, and interest thereon, shall be exempt from all State, county and municipal taxes, including income, inheritance and property taxes. The Bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of bank, fiduciary, insurance company, trust, and public funds.

"SECTION 14. (a) Bonds may be issued under this Act for the purpose of refunding any outstanding bonds issued pursuant to this Act or to refund any outstanding bonds of the Commission issued pursuant to the Prior Acts. The Commission shall not be required to include Bonds issued pursuant to this Section in any written plan submitted to the Governor under Section 2(b) of this Act, and such Bonds shall not be subject to the requirements for the approval and proclamation of the Governor as set forth in Section 2(c).

"(b) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations. If sold for cash, the proceeds may be either applied to the payment of the obligations refunded or deposited in irrevocable trust for the

retirement thereof either at maturity or on an authorized redemption date.

"(c) Refunding bonds shall in all respects be authorized, issued, and secured in the manner provided for the bonds being refunded, and shall have all the attributes of the refunded bonds. To the extent that the refunding bonds are not in a greater principal amount than the outstanding principal amount of the bonds being refunded, the principal amount of such refunding bonds shall not be subject to the \$300,000,000 limit set forth in Section 2 (a) or the \$60,000,000 limit set forth in Section 2(b) of this Act.

"(d) The resolution or trust indenture under which the refunding bonds are issued shall provide that any refunding bonds shall have the same priority of payment as was enjoyed by the obligations refunded thereby.

"SECTION 15. The Commission, in addition to powers conferred under other laws, shall have the power under this Act to take such action as may be appropriate to carry out the purposes of this Act, and including the power:

"(a) to develop Projects;

"(b) to operate and maintain Projects;

"(c) to acquire absolute title to and use for any purpose and at any place, water stored in any reservoir, or other impoundment;

"(d) to acquire, collect, impound, store, transport, distribute, sell, furnish and dispose of water to any person at any place;

"(e) to purify, treat and process water;

"(f) to assist Local Entities in the preparation of their premises for the use of water furnished by the Commission and to construct upon such premises Project properties of any kind and character and, in connection therewith, to receive, acquire, endorse, pledge, hypothecate and dispose of notes, bonds, and other evidences of indebtedness;

"(g) to use the bed of any watercourse without adversely affecting existing riparian rights, any highway or any right-of-way, easement or other similar property rights, or any tax forfeited land owned or held by the State or by any political subdivision thereof;

"(h) to provide loans and grants from Bond proceeds or Project revenues to Local Entities and to authorize Local Entities to make loans to other Persons, for payment of Project Costs in order for the

Local Entity receiving such funds to develop a Project;

“(i) to purchase with Bonds proceeds or Project revenues bonds or notes from a Local Entity in order to provide funds for payment of Project Costs in order for the Local Entity receiving such funds to develop a Project, and to enter into note and bond purchase agreements in connection therewith;

“(j) to appropriate amounts from Bond proceeds to satisfy State matching requirements for federal grants, subsidies and revolving loan funds established by the Congress of the United States for the purpose of facilitating water, waste disposal, pollution control, abatement and prevention, drainage, irrigation, flood control and wetlands projects;

“(k) to appropriate amounts from Bond proceeds for the matching of moneys provided pursuant to other laws, including particularly, without limitation, Arkansas Code of 1987 Annotated Title 15, Chapter 22, Subchapter 5; Title 15, Chapter 22, Subchapter 8; Title 14, Chapter 230, Subchapter 1; Title 15, Chapter 5, Subchapter 10; and Title 15, Chapter 5, Subchapter 9;

“(l) to construct or cause to be constructed, lease as lessee, lease as lessor, and in any manner acquire, own, hold, maintain, operate, sell, dispose of, exchange, mortgage, or lend with respect to all or any part of any Project;

“(m) to acquire, own, hold, use, exercise, sell, mortgage, pledge, hypothecate, and in any manner to dispose of franchises, rights, privileges, licenses, rights-of-way and easements necessary, useful, or appropriate for the exercise of the powers or implementation of the purposes set forth in this Act;

“(n) to sell and convey, mortgage, pledge, lease as lessor, enter into lease-purchase agreements with respect to, and otherwise dispose of all or any part of any Project or other properties, tangible or intangible, including, without limitation, franchises, rights, privileges, licenses, rights-of-way and easements;

“(o) to have and exercise the right of eminent domain for the purpose of acquiring lands (the fee title thereto or any easement, right-of-way or other interest or estate therein) for Projects or portions thereof, by the procedure now provided for condemnation by municipal corporations by Act No. 269 of 1957, as now or hereafter

amended, codified as A.C.A. § 18-15-401 et seq.;

“(p) to make or accept gifts or grants of moneys, services, franchises, rights, privileges, licenses, rights-of-way, easements or other property, real or personal or mixed;

“(q) to make any and all contracts necessary or convenient for the exercise of the powers or implementation of the purposes set forth in this Act;

“(r) to fix, regulate and collect rates, fees, rents or other charges for making any loan or commitment under this Act, for performing accounting and loan servicing duties relating to such loans and for the use of any properties or services furnished by the Commission, and with respect thereto the Commission shall not be subject to the jurisdiction or control of the Arkansas Public Service Commission;

“(s) to require audits of all accounts related to construction, operation, or maintenance of any Project funded by this Act;

“(t) to take reasonable actions necessary to insure that debt service requirements are met;

“(u) to refinance loans made by the Commission from whatever source to Local Entities in order to develop a Project;

“(v) to provide loans from Bond proceeds or Project revenues to Local Entities for the purpose of refinancing indebtedness of the Local Entity incurred for the purpose of developing a Project;

“(w) to purchase with Bond proceeds or Project revenues bonds or notes from a Local Entity in order to provide funds to refinance indebtedness incurred by a Local Entity for the purpose of developing a Project; and

“(x) to take such other action as may be appropriate to accomplish the purposes of this Act.

“SECTION 16. This Act shall constitute a contract between the State and the registered owners of all Bonds issued hereunder which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, shall be enjoined by the courts at the suit of any bondholder or any taxpayer. The courts shall, in like suit against the Commission, the Treasurer of State, or other appropriate agency, officer or official of the State, prevent a diversion of any revenues pledged hereunder and

shall compel the restoration of diverted revenues, by injunction or mandamus. Also, and without limitation as to any other appropriate remedy at law or in equity, any bondholder may, by an appropriate action, including without limitation, injunction or mandamus, compel the performance of all covenants and obligations of the State, its officers and officials, hereunder.

"SECTION 17. (a) This Act shall not create any right of any character and no right of any character shall arise under or pursuant to it, unless and until the first series of Bonds authorized by this Act shall have been sold and delivered.

"(b) The issuance of Bonds authorized by this Act shall not impair or affect any outstanding bonds of the Commission issued pursuant to the Prior Acts.

"SECTION 18. No Bonds shall be issued under this Act except by and with the consent of a majority of the qualified electors of the State voting on the question in substantially the form described in this Section at the general election of 1998 unless the Governor shall, by proclamation, call a special election to be conducted prior thereto. If the question is presented at the general election of 1998, notice thereof shall be published by the Secretary of State by one insertion in a newspaper of general circulation in the State at least sixty (60) days prior to the general election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to the general election.

"If a special election is called by the Governor, the proclamation thereof shall be made at least sixty (60) days prior to the date fixed by such proclamation for the election, and notice of the special election shall be given by publication of the proclamation for one insertion in one newspaper of general circulation published in each county in the State not less than thirty (30) days prior to the date of such election. If there is no newspaper regularly published in a county, the proclamation may be published in any newspaper having a general circulation in the county. It shall not be necessary, in the case of the notice or proclamation for the election, to publish this Act in its entirety, but the notice or proclamation shall state that it is issued for the purpose of submit-

ting to the people substantially the following question:

"Shall the Arkansas Soil and Water Conservation Commission be authorized to issue General Obligation Bonds under the authority of the Arkansas Water, Waste Disposal and Pollution Abatement Facilities Financing Act of 1997 in total principal amount not to exceed Three Hundred Million Dollars (\$300,000,000), in series from time to time in principal amounts not to exceed, without prior approval of the General Assembly, Sixty Million Dollars (\$60,000,000) in any fiscal biennium, for the financing and refinancing of the development of water, waste disposal, water pollution control, abatement and prevention, drainage, irrigation, flood control and wetlands projects to serve the citizens of the State of Arkansas, which Bonds shall be secured by a pledge of the full faith and credit of the State of Arkansas?

"Whether the question is presented at special election or at the general election of 1998, the title of this Act shall be the ballot title, and there shall be printed on the ballot the proposition as stated above, and the following:

"FOR Issuance of State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds ____

"AGAINST Issuance of State of Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds ____

"The county boards of election commissioners of the several counties of the State shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as the law requires; and the vote shall be canvassed and the result thereof declared in each county by such several county boards. The results shall within ten (10) days after the date of the election be certified by such county boards to the Secretary of State who shall forthwith tabulate all returns so received by him and certify to the Governor the total vote for and against the proposition submitted as in this Section provided.

"The result of the election shall be proclaimed by the Governor by publication one time in a newspaper published in the City of Little Rock, Arkansas, and the

results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of such publication.

“SECTION 19. If a majority of the qualified electors voting on the question shall vote for the issuance of the Bonds, the Commission shall proceed with the sale and the issuance of the Bonds as provided in this Act. If a majority of the qualified electors voting on the question vote against the issuance of the Bonds, none of the Bonds authorized by this Act shall ever be sold or issued, and all provisions of the Act shall be of no further effect.

“SECTION 20. The authority to issue bonds under Section 2 of this Act in an aggregate principal amount not to exceed Three Hundred Million Dollars (\$300,000,000) shall be reduced by the principal amount of bonds issued for non-refunding purposes under the Prior Acts after the effective date of this Act.

“SECTION 21. If, for any reason, any Section or provision of this Act shall be held to be unconstitutional or invalid for any reason, such holding shall not effect the remainder of this Act, but this Act, insofar as it is not in conflict with the Constitution of the State or the Constitu-

tion of the United States, shall be permitted to stand, and the various provisions of this Act are hereby declared to be severable for that purpose. Any case involving the validity of this Act or involving the Bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after rendition of such judgment or decree.

“SECTION 22. (a) This Act shall be liberally construed to accomplish the purposes thereof. This Act shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

“(b) This Act shall be interpreted to supplement existing laws conferring rights and powers upon the Commission, and the rights and powers set forth herein shall be regarded as alternate methods for the accomplishment of the purposes of this Act.

“(c) Nothing set forth in this Act shall be construed to repeal or to reduce the powers conferred by the Prior Acts.”

17. DEPARTMENT OF ARKANSAS STATE POLICE HEADQUARTERS FACILITY AND WIRELESS DATA EQUIPMENT FINANCING ACT — ACTS 1997, No. 1057.

Publisher's Notes. Acts 2015, No. 856, § 1, provided: “Legislative intent — Repeal of Acts 1997, No. 1057.

“(a)(1) It is the intent of the General Assembly to update the Department of Arkansas State Police Headquarters Facility and Wireless Data Equipment Financing Act as established by uncodified Acts 1997, No. 1057, by repealing Acts 1997, No. 1057, and enacting this act.

“(2) It is not the intent of the General Assembly to:

“(A) Affect any bonds issued under Acts 1997, No. 1057; or

“(B) Allow the existence of bonds issued under Acts 1997, No. 1057, to impair the effectiveness of this act or the authority given under this act.

“(b) Acts 1997, No. 1057, is repealed.”

See the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, § 12-8-601 et seq.

18. THE STEEL MILL PROJECT — ACTS 2013, No. 1084, §§ 1-8.

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that the:

(1) Creation of jobs and economic growth are critical to improving the lives of the citizens of the State of Arkansas; and

(2) Arkansas Economic Development Commission has submitted for approval of the General Assembly a proposal to issue general obligation

bonds of the state to provide financing for a large economic development project.

(b) The General Assembly further finds that:

(1) The proposed project between the State of Arkansas and Big River Steel, LLC is a qualified project under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and Big River Steel, LLC qualifies as an eligible business under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.;

(2) The proposed uses of the bond proceeds described in the Amendment 82 Agreement qualify as financing for infrastructure or other needs within the meaning of Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.; and

(3) Arkansas Constitution, Amendment 82, authorizes the General Assembly to issue bonds bearing the full faith and credit of the State of Arkansas if the prospective employer planning an economic development project is eligible under the criteria established by law.

(c) This act is intended to authorize:

(1) The issuance of bonds under the authority granted to the General Assembly under Arkansas Constitution, Amendment 82; and

(2) Under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the execution and implementation of the Amendment 82 Agreement and other provisions necessary to carry out the Amendment 82 Agreement.

(d) As provided under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., this act includes the:

(1) Authorization for the issuance of bonds bearing the full faith and credit of the State of Arkansas as authorized under Arkansas Constitution, Amendment 82;

(2) Authorization of the agreement between the State of Arkansas and the Big River Steel, LLC;

(3) Creation of a sales tax exemption for natural gas and electricity for Big River Steel, LLC; and

(4) Extension of the waste reduction, reuse, or recycling equipment tax credit.

SECTION 2. Big River Steel Project bonds issued under Arkansas Constitution, Amendment 82.

(a) As used in this section:

(1) "Amendment 82 Agreement" means the unexecuted document titled "Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC" submitted to the General Assembly and as found in Section 8 of this act; and

(2) "Project" means the acquisition, development, construction, and operation of a mini-mill steel manufacturing facility by Big River Steel, LLC, on a site in Mississippi County, Arkansas, that is identified more specifically in the Amendment 82 Agreement.

(b)(1) The General Assembly finds that the project qualifies as a large

economic development project for which the issuance of general obligation bonds is authorized under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and is of the nature intended by the electors of the state to be financed with bonds under Arkansas Constitution, Amendment 82.

(2) The General Assembly approves the terms of the Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC, and authorizes the execution of the Amendment 82 Agreement in substantially the same form as presented to the General Assembly but with such changes as shall be approved by the officers executing the Amendment 82 Agreement on behalf of the state.

(c)(1) The General Assembly authorizes the Arkansas Development Finance Authority to issue general obligation bonds of the State of Arkansas in an amount not to exceed one hundred twenty-five million dollars (\$125,000,000) in the aggregate.

(2) The bonds authorized under subdivision (c)(1) of this section:

(A) Are direct general obligations of the State of Arkansas;

(B) Bear the full faith and credit of the State of Arkansas; and

(C) Are payable from gross general revenues or special revenues appropriated by the General Assembly.

(d) The authority shall issue the bonds in accordance with the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(e)(1) The Arkansas Economic Development Commission and the authority may implement the Amendment 82 Agreement consistent with this act, Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(2) If a provision of this act or of the Amendment 82 Agreement conflicts with any provision of the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the provisions of this act and the provisions of the Amendment 82 Agreement control.

SECTION 3. Sections 4 through 7 of this act shall be known and may be cited as the “Amendment 82 Big River Steel Project Tax Provisions”.

SECTION 4. Definitions.

As used in sections 4 through 7 of this act:

(1) “Invested” includes, but is not limited to, expenditures made from the proceeds of bonds, including interim notes or other evidence of indebtedness, issued by a municipality, county, or an agency or instrumentality of a municipality, county, or the State of Arkansas, if the obligation to repay the bonds, including interest thereon, is a legally binding obligation, directly or indirectly, of the taxpayer;

(2) “Production, processing, and testing equipment” includes machinery and equipment essential for the receiving, storing, processing, and testing of raw materials and the production, storage, testing, and shipping of finished products, and facilities for the production of steam, electricity, chemicals, and other materials that are essential to the manufacturing process but which are consumed in the manufacturing process and do not become essential components of the finished product; and

(3) "Qualified manufacturer of steel" means any natural person, company, or corporation, and any holding company of any of the foregoing, engaged in the manufacture, refinement, or processing of steel whenever more than fifty percent (50%) of the electricity or more than fifty percent (50%) of the natural gas consumed in the manufacture, refinement, or processing of steel is used to power an electric arc furnace or furnaces or continuous casting equipment in connection with the melting, continuous casting, or rolling of steel or in the preheating of steel for processing through a rolling mill or rolling mills, or both.

SECTION 5. Certification required.

(a) To claim the benefits of this act, a taxpayer must obtain a certification prior to March 31, 2016, from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer:

(1) Is a qualified manufacturer of steel;

(2) Operates a steel mill in Arkansas which began production after January 1, 2013; and

(3) Has invested after January 1, 2013, and prior to December 31, 2015, more than five hundred million dollars (\$500,000,000) in the steel mill, and the investment expenditure is for one (1) or more of the following:

(A) Property purchased for use in the construction of a building or buildings or any addition or improvement thereon to house the steel mill;

(B)(i) Machinery and equipment to be located in or in connection with the steel mill.

(ii) Motor vehicles of a type subject to registration shall not be considered as machinery and equipment; and

(C) Project planning costs or construction labor costs, including:

(i) On-site direct labor and supervision, whether employed by a contractor or the project owner;

(ii) Architectural fees or engineering fees, or both;

(iii) Right-of-way purchases;

(iv) Utility extensions;

(v) Site preparation;

(vi) Parking lots;

(vii) Disposal or containment systems;

(viii) Water and sewer treatment systems;

(ix) Rail spurs;

(x) Streets and roads;

(xi) Purchase of mineral rights;

(xii) Land;

(xiii) Buildings;

(xiv) Building renovation;

(xv) Production, processing, and testing equipment;

(xvi) Drainage systems;

(xvii) Water tanks and reservoirs;

(xviii) Storage facilities;

- (xix) Equipment rental;
- (xx) Contractor's cost-plus fees;
- (xxi) Builders' risk insurance;
- (xxii) Original spare parts;
- (xxiii) Job administrative expenses;
- (xxiv) Office furnishings and equipment;
- (xxv) Rolling stock; and
- (xxvi) Capitalized start-up costs related to the construction as recognized by generally accepted accounting principles.

(b) To continue to claim the benefits provided under Section 7 of this act after December 31, 2018, a taxpayer shall:

(1) Obtain an annual certification from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer meets the requirements of subsection (a) of this section; and

(2) Employ at least three hundred (300) individuals in the management, operations, and maintenance of the steel mill at an average wage equal to or in excess of seventy thousand dollars (\$70,000) in cash compensation per calendar year.

SECTION 6. Exemption from taxes.

Beginning on the date that production, processing, and testing equipment are first in operation, sales of natural gas and electricity to a qualified manufacturer of steel that is certified under Section 5 of this act shall be exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101, et seq., the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq., and any other state or local tax administered under those acts.

SECTION 7. Recycling tax credits.

(a)(1)(A) A qualified manufacturer of steel that has been certified under Section 5 of this act after January 1, 2013, and prior to December 31, 2020, and that has qualified for the income tax credit for the purchase of waste reduction, reuse, or recycling equipment provided by Arkansas Code § 26-51-506, may carry forward any unused income tax credit earned under § 26-51-506 for a period of fourteen (14) consecutive years following the taxable year in which the credit originated.

(B) However, if a qualified manufacturer of steel is not certified under Section 5(b) of this act, the carry-forward period allowed under subdivision (a)(1)(A) of this section shall be reduced by one (1) year for each year that the qualified manufacturer of steel does not obtain certification under Section 5(b) of this act.

(2) Income tax credits that would otherwise expire during that period shall be claimed first.

(b)(1) As used in subdivision (a)(1) of this section, the term "waste reduction, reuse, or recycling equipment" as defined in § 26-51-506 shall include production, processing, and testing equipment used to manufacture products containing recovered materials.

(2) The provisions of § 26-51-506(d)(4) shall not apply.

(3) However, the qualified manufacturer of steel shall make a good

faith effort to use recovered materials containing Arkansas post-consumer waste as a part of the materials used.

(c)(1) Except as provided in subdivision (c)(2) of this section, the refund provisions of Arkansas Code § 26-51-506(f) shall not apply to a qualified manufacturer of steel that has been certified under Section 5 of this act.

(2) The qualified manufacturer of steel shall refund the amount required under subdivision (c)(3) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed from Arkansas, disposed of, or transferred to another person, or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506 or this section.

(ii) Reorganization transactions, changes of ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates which do not constitute sales or transfers to a third-party purchaser shall not be considered disposals, transfers, or cessations of use for purposes of § 26-51-506 or this section; or

(B) The Director of the Arkansas Department of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

(3) If the provisions of subdivision (c)(2) of this section apply, the qualified manufacturer of steel shall refund the amount of the allowed tax credit claimed by the qualified manufacturer of steel which exceeds the following amounts:

(A) Within the first taxable year, zero dollars (\$0.00);

(B) Within the second taxable year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third taxable year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(4) Any refund required by subdivision (c)(2)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which that subdivision applies.

(5) A qualified manufacturer of steel that is required to refund part of a credit pursuant to this section shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date the refund is required.

(6) A qualified manufacturer of steel aggrieved by a decision of the Director of the Arkansas Department of Environmental Quality under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in Arkansas Code §§ 8-4-222 — 8-4-229.

(d) In the case of a qualified manufacturer of steel that is:

(1) A proprietorship, partnership, limited liability company, or other

business organization treated as a proprietorship or partnership for tax purposes, the amount of the credit determined under this section for any taxable year shall be apportioned to each proprietor, partner, member, or other owner in proportion to the amount of income from the entity which the proprietor, partner, member, or other owner is required to include in gross income or as otherwise provided for in the applicable ownership or operating agreements if at least one of the proprietor, partner, member or other owner of the organization is a public retirement system of the State of Arkansas;

(2) A Subchapter S corporation, the amount of credit determined shall be apportioned to each Subchapter S corporation shareholder in proportion to the amount of income from the entity which the Subchapter S corporation shareholder is required to include as gross income or as otherwise provided for in the applicable articles of incorporation or bylaws if at least one of the shareholders is a public retirement system of the State of Arkansas; or

(3) An estate or trust:

(A) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and

(B) Any beneficiary to whom any amount has been apportioned under this section shall be allowed, subject to the limitations contained in this section, a credit under this section for that amount.

SECTION 8. Amendment 82 Agreement Between The State Of Arkansas And Big River Steel, LLC.

AMENDMENT 82 AGREEMENT

Between

THE STATE OF ARKANSAS

And

BIG RIVER STEEL, LLC

Dated as of

MARCH ____, 2013

AMENDMENT 82 AGREEMENT

THIS AMENDMENT 82 AGREEMENT (“Agreement”) is made and entered into by and between the State of Arkansas (the “State”); and Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware (the “Sponsor”).

W-I-T-N-E-S-S-E-T-H

For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Agreement, the following terms and variations thereof (including the singular, plural, and possessive and the past, present, and future tense) shall have the following meanings:

“Act” shall mean and refer to the Arkansas Amendment 82 Imple-

mentation Act, A.C.A. § 15-4-3201 et seq., as amended through 2012.

“Actual Project Capital Expenditures” shall mean and refer to the total of: (a) the Qualifying Site Preparation Costs, including Piling Costs, and the Infrastructure Costs actually invested by, or on behalf of, the Sponsor at the Project Site; and (b) any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site.

“Advantage Arkansas Agreement” shall mean and refer to a Financial Incentive Agreement with the State for job creation tax credits as required pursuant to A.C.A. § 15-4-2705.

“Advantage Arkansas Program” shall mean and refer to the job creation tax credit program established by the Consolidated Incentive Act.

“Agreement” shall mean and refer to this Amendment 82 Agreement.

“Amendment 82” shall mean and refer to Amendment 82 to the Constitution of the State of Arkansas of 1874.

“Amendment 82 Financing” shall mean and refer to the funds to be provided by the State to, or for the benefit of, the Sponsor pursuant to the Grants and the Incentive Loan and the funds allocated to the reasonable and necessary closing costs and expenses of the State.

“Amendment 82 Requirements” shall mean and refer to the provisions of Amendment 82 and the Act, and other requirements imposed by legislation approving this Agreement.

“Announced Controlling Party” shall mean and refer to the Person who shall be proposed to be the successor to the Sponsor with respect to the Project following a Change of Control Event.

“Authority” shall mean and refer to the Arkansas Development Finance Authority or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Authority pursuant to this Agreement.

“Bonds” shall mean and refer to the general obligation bonds issued by the State pursuant to the Amendment 82 Requirements in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) for the Amendment 82 Financing.

“Capital Commitments” shall mean and refer to: (a) the written commitments obtained by the Sponsor for private equity investments; (b) various other forms of capital including term loans and working capital financing; (c) written commitments obtained by the Sponsor for infrastructure; (d) incentives from the State including the Amendment 82 Financing and the incentives described in Section 8, but not those incentives described in Sections 9 and 10; (e) other incentives including amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site; and (f) other forms of financing, exclusive of the Amendment 82 Financing.

“Capital Commitment Documents” shall mean and refer to any documents evidencing the Capital Commitments and any such other documents, records, and other information as are reasonably necessary

to describe the nature, terms and conditions, and amount or value of the Capital Commitments.

“Change of Control Event” shall have the meaning set forth in the Inter-Creditor Agreement that, when taken as a whole, is no less favorable to the State than a definition which includes the following events: (a) the sale or disposition of all or substantially all of the assets of the Project to a Non-related Entity; and (b) all such other events as may be defined in the Inter-Creditor Agreement.

“Chief Fiscal Officer” shall have the meaning set forth in the Act.

“Closing Date” shall mean and refer to the date of the issuance of the Bonds.

“Commission” shall mean and refer to the Arkansas Economic Development Commission or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Commission pursuant to this Agreement.

“Compensation Target” shall mean and refer to an average annual compensation with respect to the Direct Positions and Independent Direct Positions designated by the Sponsor of Seventy-five Thousand Dollars (\$75,000.00) per year, excluding any non-cash benefits.

“Confidential Business Information” shall have the meaning set forth in Section 15.

“Consolidated Incentive Act” shall mean and refer to the Consolidated Incentive Act of 2003, A.C.A. § 15-4-2701 et seq., as amended.

“Department” shall mean and refer to the Arkansas Department of Finance and Administration.

“Development Plan” shall mean and refer to the plans attached to Exhibit 1.

“Direct Positions” shall mean and refer to those employees: (a) who shall be designated by the Sponsor; (b) who shall hold Full Time Positions; and (c) who shall work directly for the Sponsor or a Related Entity at the Facility or on the Project Site.

“Employment Target” shall mean and refer to at least five hundred twenty-five (525) New Full Time Positions through either Direct Positions or Independent Direct Positions at the Facility or on the Project Site.

“Escrow Account” shall mean and refer to any interest earning escrow account administered by the Escrow Agent pursuant to an Escrow Agreement.

“Escrow Agent” shall mean and refer to any Person appointed by the State as an escrow agent with respect to funds or items to be held or disbursed by the State pursuant to the terms and conditions of this Agreement.

“Escrow Agreement” shall mean and refer to any escrow agreement with any Escrow Agent.

“Exhibit” shall mean and refer to an exhibit specifically referred to in this Agreement that shall be either attached to this Agreement or delivered by a Party in conjunction with the execution and delivery of this Agreement.

“Facility” shall mean and refer to the Mini Mill steel manufacturing facility and all related buildings and infrastructure to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“Financial Incentive Agreement” shall mean and refer to the financial incentive agreements described in the Consolidated Incentive Act.

“Full Time Position” shall mean, when referring to a position or job, a position or job filled for at least nine (9) months during a calendar year with an average of at least thirty (30) hours of work each week.

“General Assembly” shall mean and refer to the Senate and the House of Representatives of the State.

“Governmental Authority” shall mean and refer to any executive, legislative, or judicial branch, or any agency, department, board, commission, council, court, tribunal, official, task force, or other authority exercising governmental powers of the United States of America or the State.

“Governor” shall mean and refer to the Governor of the State.

“Grants” shall mean and refer collectively to the cash grant for Qualifying Site Preparation Costs as described in Section 6.2 and the cash grant for Piling Costs as described in Section 6.3.

“Incentive Loan” shall mean and refer to the loan of money as described in Section 6.4.

“Incentive Loan Collateral” shall mean and refer to that part of the Infrastructure described in Exhibit 2 and all accessions, substitutions, and replacements thereto or thereof, whether now owned or hereafter acquired and all proceeds thereof whether of the same or different class.

“Incentive Loan Documents” shall mean and refer to the promissory note, security agreement, mortgage, financing statement, fixture statement, and other documents entered into between the Authority and the Sponsor with respect to the Incentive Loan.

“Independent Direct Positions” shall mean and refer to those employees and independent contractors of Non-related Entities who shall be designated by the Sponsor and who hold Full Time Positions at the Facility or on the Project Site with the primary objective of providing any of the following products and services necessary to the operation, maintenance, or repair of any part of the Project: (1) slag handling operations; (2) oxygen and hydrogen production operations; (3) roll shop operations; (4) maintenance shop operations; (5) scrap handling and processing operations; (6) material management operations; (7) logistic operations; (8) site maintenance; or (9) any other support services at the Facility or on the Project Site as approved by the Commission.

“Infrastructure” shall mean and refer to the buildings, fixtures, machinery, and equipment acquired, developed, constructed, and operated at the Project Site and includes the Facility.

“Infrastructure Costs” shall mean and refer to the costs and expenses paid or incurred by, on behalf of, the Sponsor with respect to the acquisition, development, construction of the Infrastructure at the Project Site, but shall not include any amounts paid by or received from

the City of Osceola, Arkansas or Mississippi County, Arkansas.

“Inter-Creditor Agreement” shall mean and refer to the inter-creditor agreement among the Authority and all Senior Term Lenders to the Project and all other Persons who may claim any interest in the Incentive Loan Collateral and certain other Persons.

“Investment Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to make a minimum capital investment of One Billion Twenty-three Million Five Hundred Ninety Thousand Dollars (\$1,023,590,000.00) in Actual Project Capital Expenditures.

“Investment Threshold” shall mean and refer to the investment by the Sponsor of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Actual Project Capital Expenditures for the use and benefit of the Project at the Project Site.

“Joint Marketing Agreement” shall mean and refer to the joint marketing agreement to be entered into between the Commission and the Sponsor prior to the Closing Date.

“Letter of Commitment” shall mean and refer to the letter of commitment entered into pursuant to the Amendment 82 Requirements between the Commission and the Sponsor as of January 28, 2013.

“Mini Mill” shall mean and refer to the steel manufacturing facility to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“New Full Time Position” shall mean and refer to a permanent Full Time Position at the Facility or the Project Site that was created after the date of this Agreement.

“Non-related Entity” shall mean and refer to any Person that shall not meet the definition of a Related Entity.

“Office of Economic and Tax Policy” shall mean and refer to the Office of Economic and Tax Policy of the Arkansas Bureau of Legislative Research.

“Party” shall mean and refer to either or both of the State and the Sponsor.

“Person” shall mean and refer to any Party, individual, entity, corporation, company, association, limited liability company, joint venture, general partnership, limited partnership, organization, Governmental Authority, revocable trust, irrevocable trust, estate, personal representative, executor, trustee, receiver, liquidator, or other person.

“Piling Costs” shall mean and refer to those Qualifying Site Preparation Costs directly related to that part of the Facility on which the Mini Mill shall be situated and that shall be necessary for subsurface stabilization of the Mini Mill. “Piling Costs” include costs and expenses related to piling, subsurface stabilization, engineering, grading, footers, dewatering, excavation and foundation preparation, all installation, material and labor costs and expenses directly related to the foregoing, and all other necessary subsurface stabilization costs and expenses incidental to the Piling Costs.

“Position Creation Requirement” shall mean and refer to the obliga-

tion of the Sponsor, as described in this Agreement, to achieve and maintain the Employment Target and the Compensation Target.

“Preliminary Period” shall mean and refer to a term of thirty-six (36) months commencing on the Closing Date and continuing until the third anniversary thereof.

“Project” shall mean and refer to the acquisition, development, construction, and operation of the Facility at the Project Site in a manner that shall satisfy the Investment Requirement and that shall achieve and maintain the Position Creation Requirement.

“Project Site” shall mean and refer to the location of the Project in Mississippi County, Arkansas as described in Exhibit 3.

“Qualified Amendment 82 Project” shall have the meaning set forth in the Act.

“Qualifying Site Preparation Costs” shall mean and refer to the following costs and expenses of the Project at the Project Site: removal of trees, removal of structures, site clearing activities, grubbing, grading, environmental remediation costs, excavation and other earthwork, fill dirt, compaction, erosion control, installation of drainage and storm water detention, fencing, installation of temporary and permanent internal roads, footers and building foundations, on-site rail installation, on-site public infrastructure improvements or construction, engineering costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and that shall be approved by the State.

“Recycling Credit Legislation” shall mean and refer to an act to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) in connection with a facility located in the State of Arkansas and that create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

“Recycling Equipment Tax Credit Program” shall mean and refer to the program with such name established under A.C.A. § 26-51-506.

“Related Entity” shall have the meaning set forth in A.C.A. § 15-4-3202 (24) (2011 Revision).

“Repayment Calculations” shall mean and refer to the formulae set forth in Section 11 and Section 14 to be used if the Sponsor shall fail to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement as set forth in this Agreement.

“Repayment Penalties” shall mean and refer to the penalties payable by the Sponsor as determined by the Repayment Calculations.

“Request for Disbursement” shall mean and refer to a request by the Sponsor with respect to a disbursement of the Grants or the Incentive Loan in the form to be reasonably approved by the State and the Sponsor.

“Senior Term Lenders” shall mean and refer to those senior secured term lenders to the Project who shall be required to join as a party to

the Inter-Creditor Agreement, as reasonably determined by the Authority and the Sponsor.

“Sponsor” shall mean and refer to Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware.

“State” shall mean and refer to the State of Arkansas.

“Tax Back Program” shall mean and refer to the investment tax incentives program established by the Consolidated Incentive Act at A.C.A. § 15-4-2706.

“Termination Date” shall mean and refer to June 30, 2014.

“Test Date” shall mean and refer to the date on which the Preliminary Period shall expire and the anniversary of such date during each year of the Testing Period.

“Testing Period” shall mean and refer to a term of fifteen (15) years commencing upon the expiration of the Preliminary Period and continuing until the eighteenth (18th) anniversary of the Closing Date.

“Training Agreement” shall mean and refer to the training agreement to be entered into between the Commission and the Sponsor with respect to the assistance to be provided by the Commission to the Sponsor in the recruitment and training of employees and independent contractors.

“Utility Tax Legislation” shall mean and refer to an act to provide a full exemption of state sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

2. Project. Subject to the terms and conditions of this Agreement, the Sponsor shall: (a) acquire, develop, construct, and operate the Facility at the Project Site; (b) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (c) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (d) maintain the Position Creation Requirement during the Test Period. The Facility shall be acquired, developed, and constructed as generally described in the Development Plan.

3. Investment Requirement.

3.1. Capital Commitments. The Project shall require a minimum capital investment at the Project Site in Actual Project Capital Expenditures of at least the Investment Requirement. The Sponsor shall satisfy the Investment Requirement by no later than the expiration of the Preliminary Period. Prior to the Termination Date, the Sponsor shall raise Capital Commitments in the form of private equity investments of a minimum of Three Hundred Million Dollars (\$300,000,000.00), and the Sponsor shall obtain other Capital Commitments.

3.2. Escrow of Capital Commitments. When the Sponsor shall have raised such minimum of Capital Commitments in the form of private

equity investments and shall have obtained such other Capital Commitments to satisfy the Investment Requirement as described in Section 3.1, the Sponsor shall: (a) deposit into escrow with the Escrow Agent cash or irrevocable letters of credit with a total value of at least Three Hundred Million Dollars (\$300,000,000.00); (b) provide a written summary to the Commission and the Authority of the other Capital Commitments as shall be necessary to satisfy the Investment Requirement; and (c) provide a copy of all of the Capital Commitment Documents to the Commission and the Authority. The Sponsor shall reasonably cooperate with the Commission and the Authority with respect to any review of the Capital Commitment Documents. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall not provide the Sponsor with sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall provide written notice thereof to the Sponsor within five (5) business days from the receipt of the Capital Commitment Documents, and the Sponsor shall have until the Termination Date to raise Capital Commitments in the form of private equity investments and to obtain other Capital Commitments to satisfy the Investment Requirement. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall provide the Sponsor with the sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall send written notice thereof to the Sponsor and the Closing Date and the issuance of the Bonds shall be scheduled for a date within fifteen (15) calendar days after receipt of all the Capital Commitment Documents by the Commission and the Authority.

3.3. Local Investment. Prior to the expiration of the Preliminary Period, the Sponsor shall use its reasonable efforts to spend Two Hundred Fifty Million Dollars (\$250,000,000.00) for products and services from vendors and suppliers based in the State.

4. Position Creation Requirement. Prior to the expiration of the Preliminary Period, the Sponsor shall achieve the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. During the Testing Period, the Sponsor shall maintain the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. The New Full Time Positions required by the Position Creation Requirement shall include those Direct Positions and Independent Direct Positions designated by the Sponsor. The Employment Target and the Compensation Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which constitute Full Time Positions during the calendar year in question.

5. Time Periods.

5.1. Closing Date. The Parties anticipate that the Closing Date shall occur prior to December 31, 2013, but the Closing Date may occur on

any date prior to the Termination Date.

5.2. Project Schedule. The acquisition, development, and construction of the Project by the Sponsor is currently scheduled to commence promptly following the Closing Date, and is currently scheduled to be substantially completed within twenty-four (24) months after the Closing Date. The Sponsor currently anticipates that commercial production by the Facility shall commence approximately twenty-four (24) months after the Closing Date.

5.3. Termination. In the event the conditions to Closing set forth in Sections 12 and 13 of this Agreement shall have not been satisfied or waived on or before the Termination Date, either the State or the Sponsor may send written notice of termination to the other Party and thereafter the Parties shall have no further obligations pursuant to this Agreement and the Sponsor shall no longer be required to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement.

5.4. Preliminary Period. The Preliminary Period is intended to be the period during which the acquisition, development, and construction of the Project shall be completed. The Sponsor shall satisfy the Investment Requirement and shall achieve the Position Creation Requirement not later than the expiration of the Preliminary Period.

5.5. Testing Period. The Testing Period is intended to be the period during which the compliance with the Position Creation Requirement may be evaluated and during which the Repayment Penalties may be imposed. The Sponsor shall maintain the Position Creation Requirement during the Testing Period.

5.6. Other Periods. Except as provided in this Agreement with respect to the Investment Requirement and the Position Creation Requirement, the Sponsor shall comply with the terms and conditions of this Agreement commencing as of the date of this Agreement and continuing until the expiration of the Testing Period. The Sponsor hereby waives any right to extend any time period specified in this Agreement as set forth in A.C.A. § 15-4-3206.

6. Amendment 82 Financing.

6.1. Bonds. Subject to the terms and conditions of this Agreement and the Amendment 82 Requirements, the State shall provide funding from the Amendment 82 Financing to, or for the benefit of, the Sponsor in an aggregate amount up to One Hundred Twenty Million Dollars (\$120,000,000.00). The Amendment 82 Financing shall be funded through issuance of the Bonds in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) in the aggregate. The Bonds shall be in such denominations and series and upon such terms and conditions as determined by the Authority, in its sole and absolute discretion. The Bonds shall be direct general obligations of the State for the payment of debt service on which the full faith and credit of the State shall be pledged. The Bonds shall be payable from gross general revenues or special revenues appropriated by the General Assembly.

6.2. Grant for Qualifying Site Preparation Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor a cash grant in the amount of Fifty Million Dollars (\$50,000,000.00) for payment or reimbursement of Qualifying Site Preparation Costs.

6.3. Grant for Piling Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor an additional cash grant in an amount up to Twenty Million Dollars (\$20,000,000.00) for reimbursement of Piling Costs. Reimbursement by the State for Piling Costs shall be: (a) on a matching basis in which the State shall reimburse the Sponsor one-half ($\frac{1}{2}$) of eligible Piling Costs paid by the Sponsor; and (b) the maximum amount of Piling Costs to be reimbursed by the State shall be limited to not more than Twenty Million Dollars (\$20,000,000.00) out of a total of Forty Million Dollars (\$40,000,000.00) or more of Piling Costs.

6.4. Incentive Loan. Subject to the terms and conditions of this Agreement and the Incentive Loan Documents, the Authority shall make the Incentive Loan to the Sponsor as follows:

(a) Amount Funded; Principal Amount. In order to fund the Incentive Loan and in consideration of the Sponsor's promissory note evidencing the Incentive Loan, the Authority will make available from the Bond proceeds the sum of Fifty Million Dollars (\$50,000,000.00) for disbursement to the Sponsor under Section 7 hereof. The promissory note evidencing the Incentive Loan shall be in a principal amount equal to Fifty Million Dollars (\$50,000,000.00).

(b) Incentive Loan Collateral. The proceeds of the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes. The Incentive Loan shall be secured by a first priority, perfected, purchase-money lien and security interest in the Incentive Loan Collateral subject to the terms and conditions of the Inter-Creditor Agreement.

(c) Debt Service. Interest will accrue on the Incentive Loan at the rate payable on the Bonds issued to fund the Incentive Loan, beginning twenty-four (24) months after the Closing Date. The payment of principal and interest due on the Incentive Loan shall be structured as nearly as possible to correspond with debt service payments due on the Bonds issued to fund the Incentive Loan (excepting interest accruing on such Bonds during the first twenty-four (24) months following their date of issuance, which shall be fully borne by the State). The first payment of debt service on the Incentive Loan is projected at this time to be due from the Sponsor on the first day of the thirtieth (30th) month following the Closing Date. A debt service schedule detailing the semiannual debt service payments due on the Incentive Loan (and the principal and interest components thereof) will be attached to the promissory note evidencing the Incentive Loan. In no event shall the total debt service payments due on the Incentive Loan or the net present value of such payments exceed the total debt service payments, or the net present value of such payments, due on the Bonds issued to

fund the Incentive Loan. For purposes of determining the net present value of such total debt service payments, the total debt service payments will be discounted at a rate equal to the lesser of the true interest cost on the Bonds issued to fund the Incentive Loan or the rate agreed upon by the Authority and the Sponsor with respect to the Bonds issued to fund the Incentive Loan.

(d) Term. The Incentive Loan shall have a term of twenty (20) years commencing on the Closing Date.

(e) Prepayment. The Sponsor may prepay the Incentive Loan in whole or in part without penalty at any time beginning twenty-four (24) months after the Closing Date. The portion of any repayment in part that is attributable to principal shall be applied to satisfy principal component(s) of the Bonds issued to fund the Incentive Loan being redeemed in connection with the prepayment and the Authority shall promptly thereafter provide a revised debt service schedule for approval by the Sponsor and attachment to the promissory note. In the event the Sponsor meets the conditions in this Section 6.4(e) and the Sponsor elects to prepay the Incentive Loan in full prior to the expiration of forty-eight (48) months after the Closing Date, the prepayment amount shall be equal to Forty-five Million Dollars (\$45,000,000.00) million less any principal amount of the Incentive Loan previously paid by the Sponsor plus any accrued interest on the Incentive Loan outstanding through the prepayment date. To qualify for the discount of the prepayment amount, both of the following conditions must be met: (1) within four (4) years after the Closing Date the Sponsor shall have obtained Capital Commitments, as audited and verified by the Commission and Authority, of at least Five Hundred Million Dollars (\$500,000,000.00) (in addition to the Investment Requirement) with respect to an expansion of the steel mill operations of the Sponsor at or near the Project Site; and (2) construction of such expansion shall have commenced prior to the date of the receipt of the prepayment by the State.

6.5. Other Costs. An amount up to Five Million Dollars (\$5,000,000.00) may be funded through the Bonds for the purpose of paying reasonable and necessary closing costs and expenses of the State, in the sole and absolute discretion of the Authority, including those that relate to the issuance of the Bonds and including costs and expenses due to those trustees, agents, underwriters, attorneys, advisors, and consultants performing services on behalf of the State in connection with the Project. The Sponsor shall not be responsible for any of such costs and expenses.

6.6. Related Entities. In the event that the Sponsor may elect for any part of the Amendment 82 Financing to be paid to or received by a Related Entity to the Sponsor, the Sponsor shall notify the Commission and the Authority. As a prior condition to the payment or receipt of any part of the Amendment 82 Financing, such Related Entity of the Sponsor shall execute and deliver a joinder to this Agreement in which such Related Entity shall agree to comply with all of the terms and

conditions of this Agreement.

7. Disbursement.

7.1. Investment Threshold. Prior to any disbursement of funds by the State with respect to the Grants or the Incentive Loan, the Sponsor shall provide written confirmation to the Commission and the Authority that the Sponsor has achieved the Investment Threshold by investment of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Qualifying Site Preparation Costs, Piling Costs, and Infrastructure Costs. The Commission and the Authority shall have the right to audit and verify the investment of the Investment Threshold before disbursing funds to, or for the benefit of the Sponsor, with such audit and verification to be conducted in a timely manner. After the Investment Threshold shall have been achieved, the Actual Project Capital Expenditures that comprise the Investment Threshold may be eligible for reimbursement through a disbursement from the Grants or the Incentive Loan, as applicable.

7.2. Generally. All funds to be disbursed by the State with respect to the Grants and Incentive Loan shall require the prior approval of the Commission and the Authority. All funds to be disbursed by the State with respect to the Grants and the Incentive Loan shall be disbursed to, or for the benefit of, the Sponsor, for payment or reimbursement of qualified project costs and expenses permitted by the Amendment 82 Requirements with such qualified project costs and expenses to include Qualifying Site Preparation Costs, Infrastructure Costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and approved as eligible by the State. The disbursement of funds with respect to the Incentive Loan shall also be subject to the terms and conditions of the Incentive Loan Documents.

7.3. Procedure. Subject to the terms and conditions of this Agreement, the Grants and the Incentive Loan shall be disbursed by the State to, or for the benefit of, the Sponsor in one (1) or more disbursements. The Sponsor may request a disbursement from the Grants or the Incentive Loan by submitting a Request for Disbursement to the Commission and the Authority. The Request for Disbursement shall specify the requested source of funding from either the Grants or the Incentive Loan. A Request for Disbursement shall include an itemization of each cost and expense for which the Sponsor may request payment or reimbursement. In support of a Request for Disbursement, the Sponsor shall provide a copy of all receipts, invoices, bills, statements, checks, payments, orders, correspondence, notices, and other documents sent, received, or exchanged with respect to each cost and expense identified in the Request for Disbursement. The Sponsor shall provide the State with full access to all documents, records, and other information in the possession of or available to the Sponsor that may relate to each cost and expense identified with respect to a Request for Disbursement. The State may audit and verify all such documents, records, and other information and may take all other reasonable actions to verify that each cost and expense identified with respect to a

Request for Disbursement shall have been actually paid or incurred by the Sponsor, the reasonableness of the nature and amount of the cost and expense, and whether the cost and expense may be properly characterized as Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, or other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. Upon completion of the audit and verification by the State of the costs and expenses identified in a Request for Disbursement, the Authority shall send a Notice of Payment to the Sponsor setting forth the amount approved by the Commission and the Authority to be disbursed by the State with respect to the costs and expenses identified in a Request for Disbursement and the source of funding from either the Grants or the Incentive Loan. Within five (5) business days after the date of a Notice of Payment, the State shall cause the amount set forth in the Notice of Payment to be disbursed to, or for the benefit of, the Sponsor by wire transfer to the account of the Sponsor designated in the Request for Disbursement.

7.4. Eligible Costs and Expenses. A Request for Disbursement may request reimbursement of Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. A Request for Disbursement may include only such costs and expenses that constitute Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. With respect to any cost and expense that shall not constitute Qualifying Site Preparation Costs, Infrastructure Costs, or Piling Costs, the State shall determine whether such other cost and expense shall be incidental to the Project and whether such cost and expense shall be eligible for Amendment 82 Financing. A Request for Disbursement may not include any cost or expense that shall have been included in any prior Request for Disbursement. All Requests for Disbursement must be submitted by the Sponsor to the State no later than twenty-four (24) months after the Closing Date.

8. Training Benefits. The Commission shall assist the Sponsor in recruiting and training employees and independent contractors who shall work at the Facility or on the Project Site. The Commission and the Sponsor shall enter into the Training Agreement regarding the assistance to be provided to the Sponsor. Subject to the terms and conditions of this Agreement and the Training Agreement, the Commission shall fund up to Ten Million Dollars (\$10,000,000.00) by payment or reimbursement of costs and expenses paid or incurred by the Sponsor for training activities and facilities with respect to the employees and independent contractors who shall work at the Facility or on the Project Site. The funds disbursed to, or for the benefit of, the Sponsor for such training activities and facilities shall be in addition to the Amendment 82 Financing described in this Agreement and shall be spread equally over a period of two (2) years based on a schedule of on-the-job training

determined by the Sponsor in consultation with the Commission. The assistance to be provided by the Commission pursuant to the Training Agreement shall include the following support services: (a) recruitment advertising for new employees; (b) securing the use of facilities for accepting applications and interviewing new employees; (c) reproduction of training manuals; (d) reimbursement of compensation to instructors for on-the-job training (up to, but not to exceed actual hourly rate of pay); (e) on-site training facility space; and (f) reimbursement for train-the-trainer expenses, including reasonable expenses of travel. Requests for reimbursement shall provide the Commission, at a minimum, with the information described in paragraphs I(A) and I(B) of the form of Training Agreement.

9. Other Incentive Programs.

9.1. Advantage Arkansas Program. The Sponsor may be eligible for a job creation income tax credit provided pursuant to the Advantage Arkansas Program. The Advantage Arkansas Program provides an income tax credit against a portion of State income tax liabilities based upon a percentage of the annual payroll paid to the new full time permanent employees hired as a result of an approved project. To receive the income tax credit of the Advantage Arkansas Program, the Sponsor must enter into a Financial Incentive Agreement. The tier of the county in which the approved project is located determines the qualifying payroll threshold, as well as the income tax benefit calculation. Counties are segmented into four (4) tiers based on poverty rate, population growth, per capita income, and unemployment rate. Based on the location of the Project Site, the Sponsor may be entitled to an income tax credit up to four percent (4%) of the total taxable wages paid to new full time permanent employees hired after the date of the Financial Incentive Agreement. The annual payroll thresholds of the new employees must be met within twenty-four (24) months following the date the Financial Incentive Agreement is signed by the Commission. Employees must be taxpayers of the State to qualify for the credit. The income tax credit begins in the year in which the new employees are hired and is earned each tax year for a period of five (5) years. Any unused credits can be carried forward for nine (9) years beyond the year in which they were earned. The Sponsor may apply the credit to its State income tax liability, not to exceed fifty percent (50%) of the total income tax liability for a reporting period. The income tax credit provided by the Advantage Arkansas Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.2. Tax Back Program. The Sponsor may be eligible for a refund of state and local sales and use taxes provided pursuant to the Tax Back Program. The Tax Back Program provides for a refund of a portion of state and local sales and use taxes paid on certain purchases of material used in the construction of a building or buildings and on purchases of taxable machinery or equipment to be located in or in connection with such building or buildings. To qualify for the refund provided by the Tax Back Program, the Sponsor must: (a) invest a minimum of One

Hundred Thousand Dollars (\$100,000.00); (b) execute the Advantage Arkansas Agreement within the appropriate time as required by applicable law; and (c) submit a completed application accompanied by a local endorsement resolution from the city, county or both where the Project Site is located and which authorizes the refund of its local taxes to the Sponsor. The refund shall not include the portion of the sales tax dedicated to the Educational Adequacy Fund described in A.C.A. § 19-5-1227 and the Conservation Tax Fund as described in A.C.A. § 19-6-484. These two (2) exceptions reduce the refund by one percent (1%). Currently, the State sales tax rate is six percent (6%), and therefore, the refund of State taxes shall be based upon five percent (5%) of the eligible taxable purchases. The refund of local taxes shall be based on the sales tax rate for the city and county where the Project Site is located. The refund provided by the Tax Back Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.3. Recycling Equipment Tax Credit Program. The Sponsor may be eligible for an income tax credit provided pursuant to the Recycling Equipment Tax Credit Program. The Recycling Equipment Tax Credit Program provides for an income tax credit for thirty percent (30%) of the cost of eligible equipment and installation costs and expenses. Eligibility for the Recycling Equipment Tax Credit Program is determined by the Arkansas Department of Environmental Quality. If the Sponsor otherwise qualifies for the Recycling Equipment Tax Credit it may also qualify under the Recycling Credit Legislation to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.4. Utility Tax. The Sponsor may be eligible for a reduced rate of sales taxes with respect to purchases of electricity and natural gas used directly in the manufacturing process. The Utility Tax Legislation will provide a full exemption of sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.5. Machinery & Equipment Tax Exemptions. The Sponsor may be eligible for an exemption from state and local sales and use taxes with respect to purchases of machinery and equipment used directly in manufacturing for a new manufacturing facility or to replace existing machinery and equipment for a manufacturing facility. Machinery and equipment required by the State's laws to be purchased for air or water pollution control shall be also exempt.

10. Joint Marketing Agreement. The Commission and the Sponsor

shall enter into the Joint Marketing Agreement whereby each shall commit to spend up to One Hundred Fifty Thousand Dollars (\$150,000.00) per calendar year for each of three (3) years beginning no later than twelve (12) months after the Closing Date, to market and advertise steel companies based in the State to out-of-state suppliers, vendors, and customers for the purpose of marketing the State as the right place for out-of-state suppliers, vendors, and customers to locate their business or to market or consume the products produced by steel companies based in the State. The expenditures by the Commission with respect to the Joint Marketing Agreement shall be in addition to the Amendment 82 Financing described in this Agreement.

11. Consequences of Unsatisfied Obligations.

11.1. Generally. The Sponsor shall pay to the State certain amounts to be determined by the applicable Repayment Calculations set forth in this Section 11 in the event the Sponsor shall fail to: (a) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (b) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (c) maintain the Position Creation Requirement during the Test Period. The total amount to be paid by the Sponsor pursuant to any or all of the Repayment Calculations shall not exceed the maximum amount of the lesser of: (i) Seventy Million Dollars (\$70,000,000.00) or (ii) the total amount disbursed by the State pursuant to the Grants. Any amounts determined to be due from the Sponsor to the State pursuant to this Section 11 shall be paid by the Sponsor to the State not later than thirty (30) days following the receipt of written notice by the Sponsor from the Commission. In no case shall the Sponsor be entitled to additional funds from the State as a result of the Repayment Calculations.

11.2. Repayment Calculation — Investment Requirement. If, at the expiration of the Preliminary Period, the Sponsor has made or caused to be made Actual Project Capital Expenditures of less than One Billion Dollars (\$1,000,000,000.00), the Sponsor shall pay to the State an amount equal to one-half of one percent (0.50) of the difference between One Billion Dollars (\$1,000,000,000.00) and the Actual Project Capital Expenditures.

11.3. Repayment Calculation — Employment Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has not achieved and maintained the Employment Target, but employs at least fifty-five (55) individuals in Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the total qualified Direct Positions and Independent Direct Positions to five hundred twenty-five (525), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.3 on the first Test Date at the expiration of the Preliminary Period, the Employment Target may be satisfied through a combination

of Direct Positions and Independent Direct Positions which are filled on a full-time basis of at least thirty (30) hours per week for a period of four and one-half months (41/2) months during the six (6) months prior to the first calculation pursuant to this Section 11.3.

11.4. Repayment Calculation — Compensation Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has employed a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, but has not met the Compensation Target, the Sponsor upon written notice shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the average annual compensation of all those Direct Positions and Independent Positions as designated by the Sponsor to Seventy-five Thousand Dollars (\$75,000.00), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.4 on the first Test Date at the expiration of the Preliminary Period, the average annual compensation shall be calculated by using the amount of compensation paid during months thirty-one (31) through thirty-six (36) after the Closing Date to full-time Direct Positions and Independent Direct Positions designated by the Sponsor and then multiplied by two (2).

11.5. Repayment Calculation — After Preliminary Period. If, at any time after the expiration of the Preliminary Period, as measured annually on the Test Date, the Sponsor shall not maintain a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) multiplied by the number of years, beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Sections 11.2, 11.3, and 11.4.

11.6. Tax Incentive Penalties. The repayment obligations described in this Section 11 shall be in addition to any provisions of the State's laws pertaining to repayment, recalculation, or penalties in the event the Sponsor shall receive a benefit or economic incentive, including the Amendment 82 Financing described in this Agreement, for which the Sponsor shall later be deemed to have been ineligible.

11.7. Other. In the event that the Sponsor shall fail to comply with the terms and conditions of this Agreement other than those terms and conditions relating to the Investment Requirement and the Position Creation Requirement, the Sponsor may also be subject to penalties or remedies permitted by applicable law.

12. Conditions of the State. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the

obligations of the State pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

12.1. Negotiation and execution of all documents pertaining to the issuance of the Bonds on terms and conditions satisfactory to the State.

12.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the State.

12.3. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

12.4. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

12.5. Negotiation and execution of the Inter-Creditor Agreement on terms and conditions satisfactory to the State.

12.6. Negotiation and execution of the Escrow Agreement for the Capital Commitments on terms and conditions satisfactory to the State.

12.7. The closing of all transactions in connection with the Capital Commitments.

12.8. The Bonds shall have been sold and delivered by the Authority on terms and conditions satisfactory to the State.

12.9. All of the covenants and obligations that the Sponsor is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

13. Conditions of the Sponsor. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the Sponsor pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

13.1. Satisfactory negotiation and execution of all documents pertaining to the issuance of the Bonds.

13.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the Sponsor.

13.3. Negotiation and execution of the Advantage Arkansas Agreement, the Escrow Agreement with respect to the Capital Commitments, the Financial Incentive Agreement, the Joint Marketing Agreement, the Training Agreement, and all other contracts specifically identified in this Agreement on terms and conditions satisfactory to the Sponsor.

13.4. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

13.5. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

13.6. Approval by the Sponsor of the Capital Commitments and the closing of all transactions in connection with the Capital Commitments.

13.7. Negotiation and execution of an agreement between the Sponsor and Mississippi County, the City of Osceola, Arkansas or another local entity for the acquisition and lease of the Project Site on terms and conditions satisfactory to the Sponsor.

13.8. Issuance of the relevant Governmental Authorities of the State of all required environmental, construction, and operating permits prior to the Closing Date.

13.9. Negotiation and execution of a satisfactory long-term electrical power contract for the Facility on terms and conditions satisfactory to the Sponsor.

13.10. All of the covenants and obligations that the State is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

14. Due on Sale.

14.1. No Assumption. If a Change of Control Event is announced by the Sponsor and the Announced Controlling Party shall not agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party to pay to the State prior to consummation of the Change of Control Event an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; and (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Section 11 as a result of failing to achieve and maintain the Employment Target or the Compensation Target.

14.2. Assumption Subsequent to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor subsequent to the Investment Requirement having been satisfied and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determine that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party prior to consummation of the Change of Control Event to fund an Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by

the number of years remaining until the expiration of the Test Period divided by two (2) with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from such Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party maintains the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the Change of Control Event and the end of the Preliminary Period, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. The rights of the State upon a Change of Control Event will include, among other rights, the proportional right to vote alongside all other Senior Term Lenders on matters related to any Change of Control Event. The Commission and the Authority shall not have the right to seek the establishment of the Escrow Account if a majority of the Senior Term Lenders inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party, commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms and conditions as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event. A majority of the Senior Term Lenders shall be determined by the amounts due by the Sponsor to each such Senior Term Lender inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party immediately prior to the execution of definitive documents related to the Change of Control Event.

14.3. Assumption Prior to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor prior to the Investment Requirement having been met and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determines that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party, prior to consummation of the Change of Control Event, to fund the Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year during the Test Period in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from the Escrow Account equal to the

amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party shall achieve and maintain the Employment Target and the Compensation Target for the six (6) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. If the Announced Controlling Party shall fail to achieve and maintain the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released to the State and shall become the property of the State and neither the State, the Commission, nor the Authority shall have any obligation to make any of such funds available to the Announced Controlling Party or any other Person. The Commission and the Authority shall have the right to seek the establishment of the Escrow Account whether or not a majority of the Senior Term Lenders commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event.

14.4. Assumption Prior to End of Availability of Economic Incentives. If a Change of Control Event is announced by the Sponsor, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor prior to the announcement of the Change of Control Event shall no longer be available to either the Sponsor or the Announced Controlling Party. If the announced Change of Control Event shall not be consummated and no more than nine (9) months have elapsed since the Change of Control Event was first announced and the Sponsor provides written notice that the announced Change of Control Event shall not be consummated, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor shall be reinstated and shall be available to the Sponsor as set forth in this Agreement, to the extent consistent with applicable law.

15. Confidentiality and Non-Disclosure. The Parties recognize that certain information and records provided by the Sponsor to the Commission or the Authority include trade secrets or other information which, if disclosed, would give advantage to competitors of the Sponsor, or include records related to the Sponsor's planning, site location, expansion, operations, product development or marketing (collectively, "Confidential Business Information"). Such records are generally exempt from public disclosure under the terms of the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq. Neither the Parties to this Agreement nor any Related Entity, affiliate, or representative of any Party, shall make any disclosure of Confidential Business Information without the prior written consent of any other Party; provided

however, that a Party may make such a disclosure without the consent of any other Party if the disclosure is: (a) compelled by legal, accounting, or regulatory requirements applicable to and beyond the reasonable control of the Party; (b) necessary to proceed with the intentions and agreements contained in this Agreement as they specifically relate to any Related Entity, affiliate, or representative of any Party; (c) necessary to obtain legislative approval of the undertakings set forth in this Agreement; or (d) required under applicable law binding upon the disclosing Party. The Party making a disclosure described in (c) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party. The Party making a disclosure described in (a) or (d) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party if the disclosing Party can do so and still comply with the requirement or law compelling the disclosure; otherwise the disclosing Party shall give written notice contemporaneously with or as soon as reasonably practicable following the disclosure.

16. Incentives Not Accepted. To the extent that the Sponsor shall not accept for whatever reason any portion of the funds or economic incentives set forth in this Agreement, neither the State, the Commission, nor the Authority shall have any obligation to replace the value of the funds or economic incentives not accepted, inclusive of the value of any matching funds, with other funds or economic incentives.

17. Public Reporting Requirements. The Sponsor acknowledges and agrees to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with the State by providing such documents, records, and other information to the State as may be necessary to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with all audits and verifications by the State, including without limitation the Commission and the Authority, of all accounts related to the construction, operation, and maintenance of the Project. The Sponsor shall maintain and make available all documents, records, and other information pertaining to items contained in the terms and conditions of this Agreement for annual audit by the Chief Fiscal Officer, and upon request, but no more often than annually, by the Office of Economic and Tax Policy or a Person retained by the Office of Economic and Tax Policy. The Sponsor shall comply with all auditing and reporting requirements of any state or federal regulatory agency or other Governmental Authority that may have jurisdiction over the Sponsor. The Sponsor shall cause all Related Entities of Sponsor who receive Amendment 82 Financing to comply with the reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision).

18. Reporting of Independent Direct Positions. The Sponsor shall

cause each Person that employs or contracts with an individual holding an Independent Direct Position to provide to the State such documents, records, and other information as may be necessary to comply with the audit requirements of the Act, including those set forth in A.C.A. §§ 15-4-3206 (2011 Revision). For the purposes of Sections 4 and 11 of this Agreement no position or job may be counted as an Independent Direct Position unless the person who employs or contracts the individual holding such position or job fully complies with the State's requests for information necessary to comply with the audit and reporting provisions of the Act.

19. Representations and Warranties. In order to induce the State to enter into this Agreement, the Sponsor hereby represents and warrants to the State as follows:

19.1. Names. The correct legal name of the Sponsor is "Big River Steel, LLC".

19.2. Organization of the Sponsor. The Sponsor is a limited liability company duly organized, validly existing, and in good standing pursuant to the laws of the State of Delaware. The Sponsor is duly licensed and qualified as a foreign limited liability company with the State.

19.3. Authorization. The Sponsor has full power and authority to execute and deliver this Agreement and to perform the obligations of the Sponsor pursuant to this Agreement. The Sponsor has duly authorized the execution, delivery, and performance of this Agreement. This Agreement constitutes the valid and legally binding obligation of the Sponsor enforceable in accordance with its terms and conditions. The undersigned officer of the Sponsor is the lawful agent of the Sponsor with the authority to execute and deliver this Agreement.

19.4. Purpose. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Grants shall be used by the Sponsor solely for purposes of the Qualifying Site Preparation Costs and the Infrastructure Costs. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes.

19.5. Non-contravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement shall: (a) violate any applicable law including the Amendment 82 Requirements; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create the right to accelerate, terminate, modify, cancel, or require any notice pursuant to the Capital Commitment Documents and any other material contract or lease to which the Sponsor may be a party or by which the Sponsor may be bound or to which the Incentive Loan Collateral may be subject; or (c) violate or conflict with the articles of organization, the operating agreement, and other governing documents of the Sponsor.

20. General Covenants. In addition to the covenants of the Sponsor set forth elsewhere in this Agreement, the Sponsor covenants and agrees as follows:

20.1. Change of Name. The Sponsor shall not change its legal name unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its name.

20.2. State of Organization. The Sponsor shall not change the jurisdiction of the organization of the Sponsor unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its jurisdiction.

20.3. Eligible Business. The Sponsor shall qualify as an “eligible business” as defined in the Consolidated Incentive Act prior to the receipt of the Amendment 82 Financing.

20.4. Environmental. The Sponsor shall cause the Project to comply with the relevant environmental standards of applicable law. It is also intended that representations shall be made by the Project’s primary technology provider that its technology meets the relevant environmental standards of the World Bank Group.

20.5. Employment Laws. The Sponsor agrees to comply with all relevant and applicable employment laws.

21. General Provisions.

21.1. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State without regard to principles of conflicts of laws that would require or permit the application of the laws of a state other than the State.

21.2. Interpretation. This Agreement shall be interpreted as follows: (a) as though the Parties shared equally in the negotiation and preparation of this Agreement; (b) gender or lack of gender of any word shall include the masculine, feminine, and neuter; (c) singular shall include plural and plural shall include singular; (d) the words “include” and “including” mean, in addition to any regularly accepted meaning, “without limitation” and “including but not limited to”; (e) references to Sections refer to Sections of this Agreement; (f) subject headings, captions, and titles shall not affect the interpretation of this Agreement; (g) as a solicitation for offers until this Agreement shall have been executed and delivered by all Parties; (h) the definition of any term in this Agreement shall apply to all uses of such term whenever capitalized; and (i) any Exhibits to this Agreement shall be incorporated into this Agreement as though fully set forth word for word in this Agreement.

21.3. Business Day. If any provision of this Agreement shall require the performance of an obligation or the exercise of a right on a date that shall be a legal holiday pursuant to applicable law, a Party may postpone the performance of such obligation or the exercise of such right until the next business day pursuant to applicable law.

21.4. Currency. Any reference to dollars or money in this Agreement shall mean legal tender of the United States of America. Any amount required to be paid by a Party pursuant to this Agreement shall be paid by check or electronic transfer payable to the order of the Party to receive such amount.

21.5. Time for Performance. Time shall be of the essence.

21.6. Brokers. The State shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the Sponsor. The Sponsor shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the State.

21.7. Expenses. Except as provided in this Agreement, each Party shall pay all expenses incurred by such Party with respect to: (a) the negotiation, preparation, execution, delivery, and performance of this Agreement; and (b) the transactions contemplated by this Agreement.

21.8. Force Majeure. A Party shall bear no responsibility or liability for non-performance of obligations under this Agreement caused by, and during the duration of, major events beyond its reasonable control, such as an act of God, emergency, fire, casualty, lockout or strike, unavoidable accident, riot, war, terrorism, financial market disruption, computer virus or similar threat, or other force majeure. A Party affected by such a major event shall send written notice to all Parties of the nature and extent of the major event within sixty (60) days after the occurrence of the major event and again within sixty (60) days following the conclusion of the major event.

21.9. Notice. All notices, demands, requests, and other communications required by this Agreement shall be in writing and shall be delivered to a Party by either: (a) personal delivery; (b) overnight delivery service with delivery costs and expenses prepaid and receipt of delivery requested; (c) certified or registered mail with postage prepaid and return receipt requested; or (d) by electronic mail to the persons then holding the titles below. All notices, demands, requests, and other communications permitted or required by this Agreement shall be delivered to the Parties at the following addresses unless another address shall be designated by a Party by notice pursuant to the provisions of this Section:

If to the State: Office of the Governor
 State Capitol Room 250
 Little Rock, Arkansas 72201

AND

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72101

AND

Arkansas Department of Finance and
Administration
Office of the Director
1509 West Seventh Street, Suite 401
Little Rock, Arkansas 72203-3278

AND

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the
Commission: Arkansas Economic Development Commission
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Economic Development Commission
Attn: Bryan Scoggins
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101
bscoggins@ArkansasEDC.com

If to the Authority: Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the Sponsor: Big River Steel, LLC
Attn: Mr. John Correnti
Chairman and Chief Executive Officer
1425 Ohlendorf Road
Osceola, Arkansas 72370

21.10. Amendment. This Agreement may be modified or amended only by a subsequent written agreement executed and delivered by all Parties in accordance with the requirements of the Act. The course of dealing and the course of performance among the Parties shall not modify or amend this Agreement in any respect.

21.11. Waiver. The provisions of this Agreement may be waived only by a subsequent written agreement executed and delivered by all

Parties. Any delay or inaction by a Party shall not be construed as a waiver of any of the provisions of this Agreement. A waiver of any provision of this Agreement: (a) shall not be construed as a waiver of any other provision of this Agreement; (b) shall be applicable only to the specific instance and for the specific period in which the waiver may be given; (c) shall not be construed as a permanent waiver of any provision of this Agreement unless otherwise agreed by all Parties in a subsequent written agreement executed and delivered by all Parties; (d) shall not affect any right or remedy available to a Party; and (e) shall be subject to such terms and conditions as provided in a subsequent written agreement executed and delivered by all Parties.

21.12. Binding Effect. The Parties executed and delivered this Agreement with the intent to be legally bound to its provisions. This Agreement shall inure to the benefit of, shall be binding on, and shall be enforceable by the heirs, successors, and assigns of the Parties.

21.13. Third Party Beneficiary. The Parties do not intend to create any rights pursuant to this Agreement for the benefit of any third party beneficiary except as expressly provided in this Agreement.

21.14. Severability. Each provision of this Agreement shall be severable from all other provisions of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be determined to be invalid or unenforceable by a Governmental Authority in any litigation among the Parties, such provision shall be amended, without further action by the Parties, to the extent necessary to cause such provision to be valid and enforceable.

21.15. Remedies. The remedies provided in this Agreement and the Act shall be cumulative and not exclusive of any remedies otherwise available to the Parties pursuant to applicable law.

21.16. Conflicts. If there shall be an irreconcilable conflict between the provisions of this Agreement and the provisions of any other document with respect to the transactions contemplated by this Agreement including the Formal Proposal and the Letter of Commitment, the provisions of this Agreement shall prevail and the conflict shall be resolved by reference only to the provisions of this Agreement. To the extent there may be an irreconcilable conflict between the Amendment 82 Requirements and the provisions of this Agreement, the Amendment 82 Requirements shall prevail. To the extent there may be an irreconcilable conflict between the requirements of the Consolidated Incentive Act and the provisions of this Agreement, the requirements of the Consolidated Incentive Act shall prevail.

21.17. Entire Agreement. This Agreement contains the entire agreement of the Parties on the subject matters of this Agreement, and any oral or prior written understanding on the subject matters of this Agreement shall not be binding on the Parties. Each Party represents, warrants, and covenants that such Party has not been influenced to enter into this Agreement by any Person and has not relied on any

representation, warranty, or covenant of any Person other than as set forth in this Agreement.

The remainder of this page is intentionally blank.

EXECUTED and DELIVERED as of March ____, 2013.

THE STATE
THE STATE OF ARKANSAS

By: Governor, Mike Beebe

By: President Pro Tempore of the Senate,
Michael Lamoureux

By: Speaker of the House of Representatives,
Davy Carter

By: Chief Fiscal Officer and Director of the
Department of Finance and Administration,
Richard Weiss

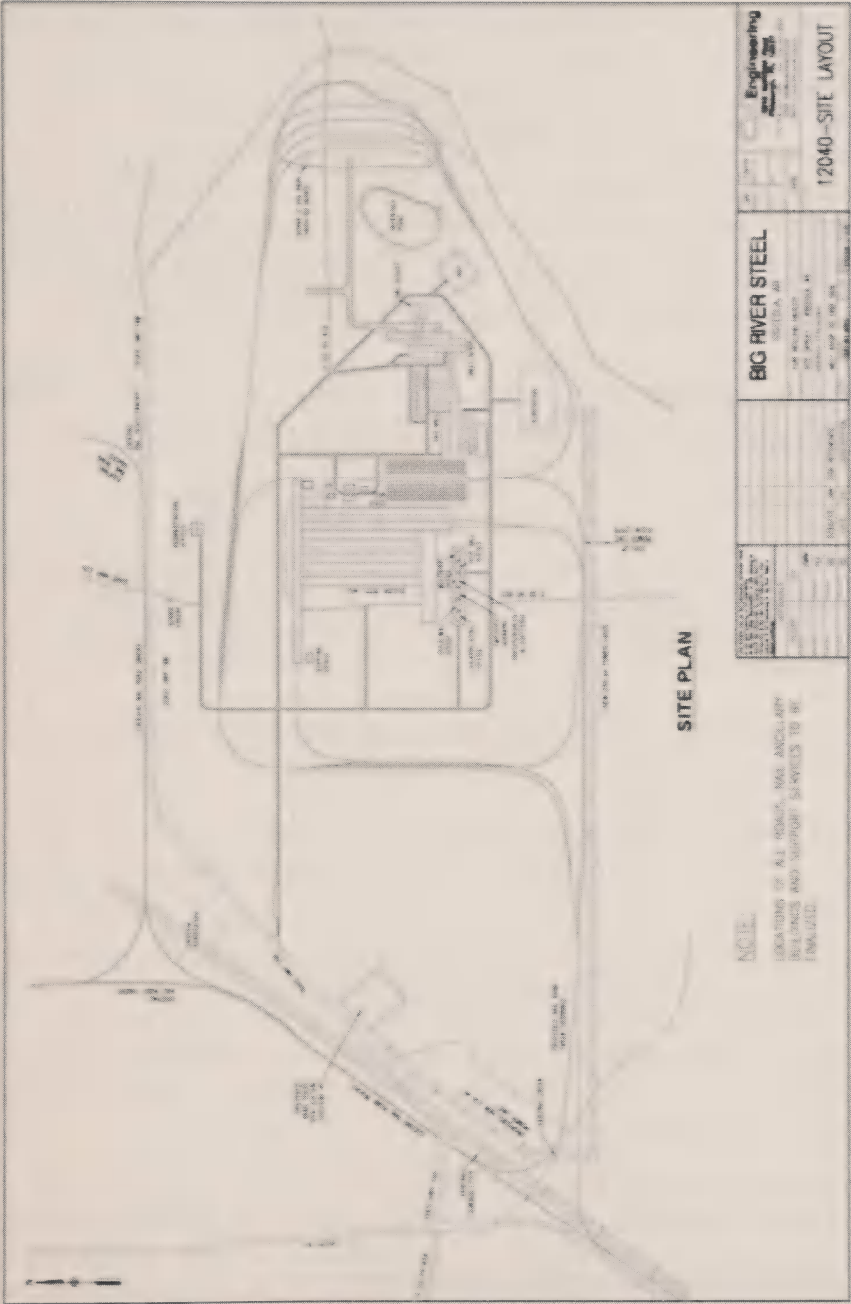
By: Director of the Arkansas Economic
Development Commission,
Grant Tennille

By: President of the Arkansas Development
Finance Authority, Mac Dodson

THE SPONSOR
BIG RIVER STEEL, LLC

By: Chairman and Chief Executive Officer,
John Correnti

EXHIBIT 1
DEVELOPMENT PLAN



**EXHIBIT 2
INCENTIVE LOAN COLLATERAL**

Hot Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting

001	Meltshop	
002	Tunnel Furnace Building	
003	Hot Mill / Roll Shop Building	
Total		\$44,100,000

Cold Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting

Total	\$30,000,000
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Total Collateral Value for Incentive Loan = \$74,100,000

**EXHIBIT 3
PROJECT SITE**

ALL OF SECTION 19, SOUTH OF HWY 198, containing in the aggregate 485 acres, more or less. THIS PORTION OF SECTION 19 IS LESS AND EXCEPT THE $W\frac{1}{2}$ OF THE $W\frac{1}{2}$ being 155 acres, more or less.

THE $S\frac{1}{2}$ and the $E\frac{1}{2}$ of the $NE\frac{1}{4}$ OF SECTION 20, containing 383 acres, more or less.

ALL OF SECTION 21, containing 452 acres, more or less. LESS AND EXCEPT LEVEE AND RIVER EROSION, containing 150 acres, more or less.

THE $NW\frac{1}{4}$ OF SECTION 22, LESS AND EXCEPT RIVER EROSION, containing 67 acres, more or less.

THE $NE\frac{1}{4}$ $NE\frac{1}{4}$ OF SECTION 29 WEST OF LEVEE containing 29 acres, more or less; and THE $N\frac{1}{2}$ OF SECTION 29 EAST OF LEVEE containing 166 acres, more or less.

THE $N\frac{1}{2}$ OF SECTION 30, containing in the aggregate 210 acres, more or less. THIS PORTION OF SECTION 30 IS LESS AND EXCEPT THE $W\frac{1}{2}$ OF THE $NW\frac{1}{4}$ containing 80 acres, more or less; AND ALSO LESS AND EXCEPT A PARCEL IN THE $SE\frac{1}{4}$ $SE\frac{1}{4}$ being 47 acres, more or less.

ALL OF THE ABOVE SECTIONS ARE IN TOWNSHIP 12 NORTH, RANGE 11 EAST of the Osceola District of Mississippi County, Arkansas.

Containing in the aggregate 1792 acres, more or less.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that unemployment levels within this state are unacceptably high; that additional incentives are needed to encourage the location and expansion of manufacturing facilities within this state and to provide additional job opportunities for our citizens; that this act is designed to provide the incentives needed to encourage certain manufacturers to locate their facilities within this state thereby creating additional job opportunities for our citizens; that the development and completion of a mini-mill steel manufacturing facility by Big River Steel, LLC is important to the economic health of the state and its citizens; and that this act is immediately necessary because any delay in the effective date of this act will delay completion of the mini-mill steel manufacturing facility by Big River Steel, LLC and the creation of new jobs in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

19. THE STEEL MILL PROJECT — ACTS 2013, No. 1476, §§ 1-8.

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that the:

(1) Creation of jobs and economic growth are critical to improving the lives of the citizens of the State of Arkansas; and

(2) Arkansas Economic Development Commission has submitted for approval of the General Assembly a proposal to issue general obligation bonds of the state to provide financing for a large economic development project.

(b) The General Assembly further finds that:

(1) The proposed project between the State of Arkansas and Big River Steel, LLC is a qualified project under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and Big River Steel, LLC qualifies as an eligible business under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.;

(2) The proposed uses of the bond proceeds described in the Amend-

ment 82 Agreement qualify as financing for infrastructure or other needs within the meaning of Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.; and

(3) Arkansas Constitution, Amendment 82, authorizes the General Assembly to issue bonds bearing the full faith and credit of the State of Arkansas if the prospective employer planning an economic development project is eligible under the criteria established by law.

(c) This act is intended to authorize:

(1) The issuance of bonds under the authority granted to the General Assembly under Arkansas Constitution, Amendment 82; and

(2) Under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the execution and implementation of the Amendment 82 Agreement and other provisions necessary to carry out the Amendment 82 Agreement.

(d) As provided under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., this act includes the:

(1) Authorization for the issuance of bonds bearing the full faith and credit of the State of Arkansas as authorized under Arkansas Constitution, Amendment 82;

(2) Authorization of the agreement between the State of Arkansas and the Big River Steel, LLC;

(3) Creation of a sales tax exemption for natural gas and electricity for Big River Steel, LLC; and

(4) Extension of the waste reduction, reuse, or recycling equipment tax credit.

SECTION 2. Big River Steel Project bonds issued under Arkansas Constitution, Amendment 82.

(a) As used in this section:

(1) "Amendment 82 Agreement" means the unexecuted document titled "Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC" submitted to the General Assembly and as found in Section 8 of this act; and

(2) "Project" means the acquisition, development, construction, and operation of a mini-mill steel manufacturing facility by Big River Steel, LLC, on a site in Mississippi County, Arkansas, that is identified more specifically in the Amendment 82 Agreement.

(b)(1) The General Assembly finds that the project qualifies as a large economic development project for which the issuance of general obligation bonds is authorized under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and is of the nature intended by the electors of the state to be financed with bonds under Arkansas Constitution, Amendment 82.

(2) The General Assembly approves the terms of the Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC, and authorizes the execution of the Amendment 82 Agreement in substantially the same form as presented to the General Assembly but with such changes as shall be approved by the officers executing the

Amendment 82 Agreement on behalf of the state.

(c)(1) The General Assembly authorizes the Arkansas Development Finance Authority to issue general obligation bonds of the State of Arkansas in an amount not to exceed one hundred twenty-five million dollars (\$125,000,000) in the aggregate.

(2) The bonds authorized under subdivision (c)(1) of this section:

(A) Are direct general obligations of the State of Arkansas;

(B) Bear the full faith and credit of the State of Arkansas; and

(C) Are payable from gross general revenues or special revenues appropriated by the General Assembly.

(d) The authority shall issue the bonds in accordance with the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(e)(1) The Arkansas Economic Development Commission and the authority may implement the Amendment 82 Agreement consistent with this act, Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(2) If a provision of this act or of the Amendment 82 Agreement conflicts with any provision of the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the provisions of this act and the provisions of the Amendment 82 Agreement control.

SECTION 3. Sections 4 through 7 of this act shall be known and may be cited as the “Amendment 82 Big River Steel Project Tax Provisions”.

SECTION 4. Definitions.

As used in sections 4 through 7 of this act:

(1) “Invested” includes, but is not limited to, expenditures made from the proceeds of bonds, including interim notes or other evidence of indebtedness, issued by a municipality, county, or an agency or instrumentality of a municipality, county, or the State of Arkansas, if the obligation to repay the bonds, including interest thereon, is a legally binding obligation, directly or indirectly, of the taxpayer;

(2) “Production, processing, and testing equipment” includes machinery and equipment essential for the receiving, storing, processing, and testing of raw materials and the production, storage, testing, and shipping of finished products, and facilities for the production of steam, electricity, chemicals, and other materials that are essential to the manufacturing process but which are consumed in the manufacturing process and do not become essential components of the finished product; and

(3) “Qualified manufacturer of steel” means any natural person, company, or corporation, and any holding company of any of the foregoing, engaged in the manufacture, refinement, or processing of steel whenever more than fifty percent (50%) of the electricity or more than fifty percent (50%) of the natural gas consumed in the manufacture, refinement, or processing of steel is used to power an electric arc furnace or furnaces or continuous casting equipment in connection with the melting, continuous casting, or rolling of steel or in the preheating of steel for processing through a rolling mill or rolling mills, or both.

SECTION 5. Certification required.

(a) To claim the benefits of this act, a taxpayer must obtain a certification prior to March 31, 2016, from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer:

(1) Is a qualified manufacturer of steel;

(2) Operates a steel mill in Arkansas which began production after January 1, 2013; and

(3) Has invested after January 1, 2013, and prior to December 31, 2015, more than five hundred million dollars (\$500,000,000) in the steel mill, and the investment expenditure is for one (1) or more of the following:

(A) Property purchased for use in the construction of a building or buildings or any addition or improvement thereon to house the steel mill;

(B)(i) Machinery and equipment to be located in or in connection with the steel mill.

(ii) Motor vehicles of a type subject to registration shall not be considered as machinery and equipment; and

(C) Project planning costs or construction labor costs, including:

(i) On-site direct labor and supervision, whether employed by a contractor or the project owner;

(ii) Architectural fees or engineering fees, or both;

(iii) Right-of-way purchases;

(iv) Utility extensions;

(v) Site preparation;

(vi) Parking lots;

(vii) Disposal or containment systems;

(viii) Water and sewer treatment systems;

(ix) Rail spurs;

(x) Streets and roads;

(xi) Purchase of mineral rights;

(xii) Land;

(xiii) Buildings;

(xiv) Building renovation;

(xv) Production, processing, and testing equipment;

(xvi) Drainage systems;

(xvii) Water tanks and reservoirs;

(xviii) Storage facilities;

(xix) Equipment rental;

(xx) Contractor's cost-plus fees;

(xxi) Builders' risk insurance;

(xxii) Original spare parts;

(xxiii) Job administrative expenses;

(xxiv) Office furnishings and equipment;

(xxv) Rolling stock; and

(xxvi) Capitalized start-up costs related to the construction as recognized by generally accepted accounting principles.

(b) To continue to claim the benefits provided under Section 7 of this

act after December 31, 2018, a taxpayer shall:

(1) Obtain an annual certification from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer meets the requirements of subsection (a) of this section; and

(2) Employ at least three hundred (300) individuals in the management, operations, and maintenance of the steel mill at an average wage equal to or in excess of seventy thousand dollars (\$70,000) in cash compensation per calendar year.

SECTION 6. Exemption from taxes.

Beginning on the date that production, processing, and testing equipment are first in operation, sales of natural gas and electricity to a qualified manufacturer of steel that is certified under Section 5 of this act shall be exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101, et seq., the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq., and any other state or local tax administered under those acts.

SECTION 7. Recycling tax credits.

(a)(1)(A) A qualified manufacturer of steel that has been certified under Section 5 of this act after January 1, 2013, and prior to December 31, 2020, and that has qualified for the income tax credit for the purchase of waste reduction, reuse, or recycling equipment provided by Arkansas Code § 26-51-506, may carry forward any unused income tax credit earned under § 26-51-506 for a period of fourteen (14) consecutive years following the taxable year in which the credit originated.

(B) However, if a qualified manufacturer of steel is not certified under Section 5(b) of this act, the carry-forward period allowed under subdivision (a)(1)(A) of this section shall be reduced by one (1) year for each year that the qualified manufacturer of steel does not obtain certification under Section 5(b) of this act.

(2) Income tax credits that would otherwise expire during that period shall be claimed first.

(b)(1) As used in subdivision (a)(1) of this section, the term “waste reduction, reuse, or recycling equipment” as defined in § 26-51-506 shall include production, processing, and testing equipment used to manufacture products containing recovered materials.

(2) The provisions of § 26-51-506(d)(4) shall not apply.

(3) However, the qualified manufacturer of steel shall make a good faith effort to use recovered materials containing Arkansas post-consumer waste as a part of the materials used.

(c)(1) Except as provided in subdivision (c)(2) of this section, the refund provisions of Arkansas Code § 26-51-506(f) shall not apply to a qualified manufacturer of steel that has been certified under Section 5 of this act.

(2) The qualified manufacturer of steel shall refund the amount required under subdivision (c)(3) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed

from Arkansas, disposed of, or transferred to another person, or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506 or this section.

(ii) Reorganization transactions, changes of ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates which do not constitute sales or transfers to a third-party purchaser shall not be considered disposals, transfers, or cessations of use for purposes of § 26-51-506 or this section; or

(B) The Director of the Arkansas Department of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

(3) If the provisions of subdivision (c)(2) of this section apply, the qualified manufacturer of steel shall refund the amount of the allowed tax credit claimed by the qualified manufacturer of steel which exceeds the following amounts:

(A) Within the first taxable year, zero dollars (\$0.00);

(B) Within the second taxable year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third taxable year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(4) Any refund required by subdivision (c)(2)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which that subdivision applies.

(5) A qualified manufacturer of steel that is required to refund part of a credit pursuant to this section shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date the refund is required.

(6) A qualified manufacturer of steel aggrieved by a decision of the Director of the Arkansas Department of Environmental Quality under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in Arkansas Code §§ 8-4-222 — 8-4-229.

(d) In the case of a qualified manufacturer of steel that is:

(1) A proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, the amount of the credit determined under this section for any taxable year shall be apportioned to each proprietor, partner, member, or other owner in proportion to the amount of income from the entity which the proprietor, partner, member, or other owner is required to include in gross income or as otherwise provided for in the applicable ownership or operating agreements if at least one of the proprietor, partner, member or other owner of the organization is a public retirement system of the State of Arkansas;

(2) A Subchapter S corporation, the amount of credit determined

shall be apportioned to each Subchapter S corporation shareholder in proportion to the amount of income from the entity which the Subchapter S corporation shareholder is required to include as gross income or as otherwise provided for in the applicable articles of incorporation or bylaws if at least one of the shareholders is a public retirement system of the State of Arkansas; or

(3) An estate or trust:

(A) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and

(B) Any beneficiary to whom any amount has been apportioned under this section shall be allowed, subject to the limitations contained in this section, a credit under this section for that amount.

SECTION 8. Amendment 82 Agreement Between The State Of Arkansas And Big River Steel, LLC.

AMENDMENT 82 AGREEMENT

Between

THE STATE OF ARKANSAS

And

BIG RIVER STEEL, LLC

Dated as of

MARCH ____, 2013

AMENDMENT 82 AGREEMENT

THIS AMENDMENT 82 AGREEMENT (“Agreement”) is made and entered into by and between the State of Arkansas (the “State”); and Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware (the “Sponsor”).

W-I-T-N-E-S-S-E-T-H

For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Agreement, the following terms and variations thereof (including the singular, plural, and possessive and the past, present, and future tense) shall have the following meanings:

“Act” shall mean and refer to the Arkansas Amendment 82 Implementation Act, A.C.A. § 15-4-3201 et seq., as amended through 2012.

“Actual Project Capital Expenditures” shall mean and refer to the total of: (a) the Qualifying Site Preparation Costs, including Piling Costs, and the Infrastructure Costs actually invested by, or on behalf of, the Sponsor at the Project Site; and (b) any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site.

“Advantage Arkansas Agreement” shall mean and refer to a Financial Incentive Agreement with the State for job creation tax credits as required pursuant to A.C.A. § 15-4-2705.

“Advantage Arkansas Program” shall mean and refer to the job creation tax credit program established by the Consolidated Incentive Act.

“Agreement” shall mean and refer to this Amendment 82 Agreement.

“Amendment 82” shall mean and refer to Amendment 82 to the Constitution of the State of Arkansas of 1874.

“Amendment 82 Financing” shall mean and refer to the funds to be provided by the State to, or for the benefit of, the Sponsor pursuant to the Grants and the Incentive Loan and the funds allocated to the reasonable and necessary closing costs and expenses of the State.

“Amendment 82 Requirements” shall mean and refer to the provisions of Amendment 82 and the Act, and other requirements imposed by legislation approving this Agreement.

“Announced Controlling Party” shall mean and refer to the Person who shall be proposed to be the successor to the Sponsor with respect to the Project following a Change of Control Event.

“Authority” shall mean and refer to the Arkansas Development Finance Authority or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Authority pursuant to this Agreement.

“Bonds” shall mean and refer to the general obligation bonds issued by the State pursuant to the Amendment 82 Requirements in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) for the Amendment 82 Financing.

“Capital Commitments” shall mean and refer to: (a) the written commitments obtained by the Sponsor for private equity investments; (b) various other forms of capital including term loans and working capital financing; (c) written commitments obtained by the Sponsor for infrastructure; (c) incentives from the State including the Amendment 82 Financing and the incentives described in Section 8, but not those incentives described in Sections 9 and 10; (d) other incentives including amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site; and (e) other forms of financing, exclusive of the Amendment 82 Financing.

“Capital Commitment Documents” shall mean and refer to any documents evidencing the Capital Commitments and any such other documents, records, and other information as are reasonably necessary to describe the nature, terms and conditions, and amount or value of the Capital Commitments.

“Change of Control Event” shall have the meaning set forth in the Inter-Creditor Agreement that, when taken as a whole, is no less favorable to the State than a definition which includes the following events: (a) the sale or disposition of all or substantially all of the assets of the Project to a Non-related Entity; and (b) all such other events as may be defined in the Inter-Creditor Agreement.

“Chief Fiscal Officer” shall have the meaning set forth in the Act.

“Closing Date” shall mean and refer to the date of the issuance of the

Bonds.

“Commission” shall mean and refer to the Arkansas Economic Development Commission or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Commission pursuant to this Agreement.

“Compensation Target” shall mean and refer to an average annual compensation with respect to the Direct Positions and Independent Direct Positions designated by the Sponsor of Seventy-five Thousand Dollars (\$75,000.00) per year, excluding any non-cash benefits.

“Confidential Business Information” shall have the meaning set forth in Section 15.

“Consolidated Incentive Act” shall mean and refer to the Consolidated Incentive Act of 2003, A.C.A. § 15-4-2701 et seq., as amended.

“Department” shall mean and refer to the Arkansas Department of Finance and Administration.

“Development Plan” shall mean and refer to the plans attached to Exhibit 1.

“Direct Positions” shall mean and refer to those employees: (a) who shall be designated by the Sponsor; (b) who shall hold Full Time Positions; and (c) who shall work directly for the Sponsor or a Related Entity at the Facility or on the Project Site.

“Employment Target” shall mean and refer to at least five hundred twenty-five (525) New Full Time Positions through either Direct Positions or Independent Direct Positions at the Facility or on the Project Site.

“Escrow Account” shall mean and refer to any interest earning escrow account administered by the Escrow Agent pursuant to an Escrow Agreement.

“Escrow Agent” shall mean and refer to any Person appointed by the State as an escrow agent with respect to funds or items to be held or disbursed by the State pursuant to the terms and conditions of this Agreement.

“Escrow Agreement” shall mean and refer to any escrow agreement with any Escrow Agent.

“Exhibit” shall mean and refer to an exhibit specifically referred to in this Agreement that shall be either attached to this Agreement or delivered by a Party in conjunction with the execution and delivery of this Agreement.

“Facility” shall mean and refer to the Mini Mill steel manufacturing facility and all related buildings and infrastructure to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“Financial Incentive Agreement” shall mean and refer to the financial incentive agreements described in the Consolidated Incentive Act.

“Full Time Position” shall mean, when referring to a position or job, a position or job filled for at least nine (9) months during a calendar year with an average of at least thirty (30) hours of work each week.

“General Assembly” shall mean and refer to the Senate and the House

of Representatives of the State.

“Governmental Authority” shall mean and refer to any executive, legislative, or judicial branch, or any agency, department, board, commission, council, court, tribunal, official, task force, or other authority exercising governmental powers of the United States of America or the State.

“Governor” shall mean and refer to the Governor of the State.

“Grants” shall mean and refer collectively to the cash grant for Qualifying Site Preparation Costs as described in Section 6.2 and the cash grant for Piling Costs as described in Section 6.3.

“Incentive Loan” shall mean and refer to the loan of money as described in Section 6.4.

“Incentive Loan Collateral” shall mean and refer to that part of the Infrastructure described in Exhibit 2 and all accessions, substitutions, and replacements thereto or thereof, whether now owned or hereafter acquired and all proceeds thereof whether of the same or different class.

“Incentive Loan Documents” shall mean and refer to the promissory note, security agreement, mortgage, financing statement, fixture statement, and other documents entered into between the Authority and the Sponsor with respect to the Incentive Loan.

“Independent Direct Positions” shall mean and refer to those employees and independent contractors of Non-related Entities who shall be designated by the Sponsor and who hold Full Time Positions at the Facility or on the Project Site with the primary objective of providing any of the following products and services necessary to the operation, maintenance, or repair of any part of the Project: (1) slag handling operations; (2) oxygen and hydrogen production operations; (3) roll shop operations; (4) maintenance shop operations; (5) scrap handling and processing operations; (6) material management operations; (7) logistic operations; (8) site maintenance; or (9) any other support services at the Facility or on the Project Site as approved by the Commission.

“Infrastructure” shall mean and refer to the buildings, fixtures, machinery, and equipment acquired, developed, constructed, and operated at the Project Site and includes the Facility.

“Infrastructure Costs” shall mean and refer to the costs and expenses paid or incurred by, on behalf of, the Sponsor with respect to the acquisition, development, construction of the Infrastructure at the Project Site, but shall not include any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas.

“Inter-Creditor Agreement” shall mean and refer to the inter-creditor agreement among the Authority and all Senior Term Lenders to the Project and all other Persons who may claim any interest in the Incentive Loan Collateral and certain other Persons.

“Investment Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to make a minimum capital investment of One Billion Twenty-three Million Five Hundred Ninety Thousand Dollars (\$1,023,590,000.00) in Actual Project Capital Expenditures.

“Investment Threshold” shall mean and refer to the investment by the Sponsor of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Actual Project Capital Expenditures for the use and benefit of the Project at the Project Site.

“Joint Marketing Agreement” shall mean and refer to the joint marketing agreement to be entered into between the Commission and the Sponsor prior to the Closing Date.

“Letter of Commitment” shall mean and refer to the letter of commitment entered into pursuant to the Amendment 82 Requirements between the Commission and the Sponsor as of January 28, 2013.

“Mini Mill” shall mean and refer to the steel manufacturing facility to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“New Full Time Position” shall mean and refer to a permanent Full Time Position at the Facility or the Project Site that was created after the date of this Agreement.

“Non-related Entity” shall mean and refer to any Person that shall not meet the definition of a Related Entity.

“Office of Economic and Tax Policy” shall mean and refer to the Office of Economic and Tax Policy of the Arkansas Bureau of Legislative Research.

“Party” shall mean and refer to either or both of the State and the Sponsor.

“Person” shall mean and refer to any Party, individual, entity, corporation, company, association, limited liability company, joint venture, general partnership, limited partnership, organization, Governmental Authority, revocable trust, irrevocable trust, estate, personal representative, executor, trustee, receiver, liquidator, or other person.

“Piling Costs” shall mean and refer to those Qualifying Site Preparation Costs directly related to that part of the Facility on which the Mini Mill shall be situated and that shall be necessary for subsurface stabilization of the Mini Mill. “Piling Costs” include costs and expenses related to piling, subsurface stabilization, engineering, grading, footers, dewatering, excavation and foundation preparation, all installation, material and labor costs and expenses directly related to the foregoing, and all other necessary subsurface stabilization costs and expenses incidental to the Piling Costs.

“Position Creation Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to achieve and maintain the Employment Target and the Compensation Target.

“Preliminary Period” shall mean and refer to a term of thirty-six (36) months commencing on the Closing Date and continuing until the third anniversary thereof.

“Project” shall mean and refer to the acquisition, development, construction, and operation of the Facility at the Project Site in a manner that shall satisfy the Investment Requirement and that shall achieve and maintain the Position Creation Requirement.

“Project Site” shall mean and refer to the location of the Project in

Mississippi County, Arkansas as described in Exhibit 3.

“Qualified Amendment 82 Project” shall have the meaning set forth in the Act.

“Qualifying Site Preparation Costs” shall mean and refer to the following costs and expenses of the Project at the Project Site: removal of trees, removal of structures, site clearing activities, grubbing, grading, environmental remediation costs, excavation and other earthwork, fill dirt, compaction, erosion control, installation of drainage and storm water detention, fencing, installation of temporary and permanent internal roads, footers and building foundations, on-site rail installation, on-site public infrastructure improvements or construction, engineering costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and that shall be approved by the State.

“Recycling Credit Legislation” shall mean and refer to an act to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) in connection with a facility located in the State of Arkansas and that create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

“Recycling Equipment Tax Credit Program” shall mean and refer to the program with such name established under A.C.A. § 26-51-506.

“Related Entity” shall have the meaning set forth in A.C.A. § 15-4-3202 (24) (2011 Revision).

“Repayment Calculations” shall mean and refer to the formulae set forth in Section 11 and Section 14 to be used if the Sponsor shall fail to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement as set forth in this Agreement.

“Repayment Penalties” shall mean and refer to the penalties payable by the Sponsor as determined by the Repayment Calculations.

“Request for Disbursement” shall mean and refer to a request by the Sponsor with respect to a disbursement of the Grants or the Incentive Loan in the form to be reasonably approved by the State and the Sponsor.

“Senior Term Lenders” shall mean and refer to those senior secured term lenders to the Project who shall be required to join as a party to the Inter-Creditor Agreement, as reasonably determined by the Authority and the Sponsor.

“Sponsor” shall mean and refer to Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware.

“State” shall mean and refer to the State of Arkansas.

“Tax Back Program” shall mean and refer to the investment tax incentives program established by the Consolidated Incentive Act at A.C.A. § 15-4-2706.

“Termination Date” shall mean and refer to June 30, 2014.

“Test Date” shall mean and refer to the date on which the Preliminary Period shall expire and the anniversary of such date during each year of the Testing Period.

“Testing Period” shall mean and refer to a term of fifteen (15) years commencing upon the expiration of the Preliminary Period and continuing until the eighteenth (18th) anniversary of the Closing Date.

“Training Agreement” shall mean and refer to the training agreement to be entered into between the Commission and the Sponsor with respect to the assistance to be provided by the Commission to the Sponsor in the recruitment and training of employees and independent contractors.

“Utility Tax Legislation” shall mean and refer to an act to provide a full exemption of state sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

2. Project. Subject to the terms and conditions of this Agreement, the Sponsor shall: (a) acquire, develop, construct, and operate the Facility at the Project Site; (b) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (c) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (d) maintain the Position Creation Requirement during the Test Period. The Facility shall be acquired, developed, and constructed as generally described in the Development Plan.

3. Investment Requirement.

3.1. Capital Commitments. The Project shall require a minimum capital investment at the Project Site in Actual Project Capital Expenditures of at least the Investment Requirement. The Sponsor shall satisfy the Investment Requirement by no later than the expiration of the Preliminary Period. Prior to the Termination Date, the Sponsor shall raise Capital Commitments in the form of private equity investments of a minimum of Three Hundred Million Dollars (\$300,000,000.00), and the Sponsor shall obtain other Capital Commitments.

3.2. Escrow of Capital Commitments. When the Sponsor shall have raised such minimum of Capital Commitments in the form of private equity investments and shall have obtained such other Capital Commitments to satisfy the Investment Requirement as described in Section 3.1, the Sponsor shall: (a) deposit into escrow with the Escrow Agent cash or irrevocable letters of credit with a total value of at least Three Hundred Million Dollars (\$300,000,000.00); (b) provide a written summary to the Commission and the Authority of the other Capital Commitments as shall be necessary to satisfy the Investment Requirement; and (c) provide a copy of all of the Capital Commitment Documents to the Commission and the Authority. The Sponsor shall reasonably cooperate with the Commission and the Authority with

respect to any review of the Capital Commitment Documents. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall not provide the Sponsor with sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall provide written notice thereof to the Sponsor within five (5) business days from the receipt of the Capital Commitment Documents, and the Sponsor shall have until the Termination Date to raise Capital Commitments in the form of private equity investments and to obtain other Capital Commitments to satisfy the Investment Requirement. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall provide the Sponsor with the sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall send written notice thereof to the Sponsor and the Closing Date and the issuance of the Bonds shall be scheduled for a date within fifteen (15) calendar days after receipt of all the Capital Commitment Documents by the Commission and the Authority.

3.3. Local Investment. Prior to the expiration of the Preliminary Period, the Sponsor shall use its reasonable efforts to spend Two Hundred Fifty Million Dollars (\$250,000,000.00) for products and services from vendors and suppliers based in the State.

4. Position Creation Requirement. Prior to the expiration of the Preliminary Period, the Sponsor shall achieve the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. During the Testing Period, the Sponsor shall maintain the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. The New Full Time Positions required by the Position Creation Requirement shall include those Direct Positions and Independent Direct Positions designated by the Sponsor. The Employment Target and the Compensation Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which constitute Full Time Positions during the calendar year in question.

5. Time Periods.

5.1. Closing Date. The Parties anticipate that the Closing Date shall occur prior to December 31, 2013, but the Closing Date may occur on any date prior to the Termination Date.

5.2. Project Schedule. The acquisition, development, and construction of the Project by the Sponsor is currently scheduled to commence promptly following the Closing Date, and is currently scheduled to be substantially completed within twenty-four (24) months after the Closing Date. The Sponsor currently anticipates that commercial production by the Facility shall commence approximately twenty-four (24) months after the Closing Date.

5.3. Termination. In the event the conditions to Closing set forth in Sections 12 and 13 of this Agreement shall have not been satisfied or

waived on or before the Termination Date, either the State or the Sponsor may send written notice of termination to the other Party and thereafter the Parties shall have no further obligations pursuant to this Agreement and the Sponsor shall no longer be required to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement.

5.4. Preliminary Period. The Preliminary Period is intended to be the period during which the acquisition, development, and construction of the Project shall be completed. The Sponsor shall satisfy the Investment Requirement and shall achieve the Position Creation Requirement not later than the expiration of the Preliminary Period.

5.5. Testing Period. The Testing Period is intended to be the period during which the compliance with the Position Creation Requirement may be evaluated and during which the Repayment Penalties may be imposed. The Sponsor shall maintain the Position Creation Requirement during the Testing Period.

5.6. Other Periods. Except as provided in this Agreement with respect to the Investment Requirement and the Position Creation Requirement, the Sponsor shall comply with the terms and conditions of this Agreement commencing as of the date of this Agreement and continuing until the expiration of the Testing Period. The Sponsor hereby waives any right to extend any time period specified in this Agreement as set forth in A.C.A. § 15-4-3206.

6. Amendment 82 Financing.

6.1. Bonds. Subject to the terms and conditions of this Agreement and the Amendment 82 Requirements, the State shall provide funding from the Amendment 82 Financing to, or for the benefit of, the Sponsor in an aggregate amount up to One Hundred Twenty Million Dollars (\$120,000,000.00). The Amendment 82 Financing shall be funded through issuance of the Bonds in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) in the aggregate. The Bonds shall be in such denominations and series and upon such terms and conditions as determined by the Authority, in its sole and absolute discretion. The Bonds shall be direct general obligations of the State for the payment of debt service on which the full faith and credit of the State shall be pledged. The Bonds shall be payable from gross general revenues or special revenues appropriated by the General Assembly.

6.2. Grant for Qualifying Site Preparation Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor a cash grant in the amount of Fifty Million Dollars (\$50,000,000.00) for payment or reimbursement of Qualifying Site Preparation Costs.

6.3. Grant for Piling Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor an additional cash grant in an amount up to Twenty Million Dollars (\$20,000,000.00) for reimbursement of Piling Costs. Reimbursement by the State for Piling Costs shall be: (a) on a matching basis in which the State shall reimburse the Sponsor one-half ($\frac{1}{2}$) of eligible Piling Costs paid by the

Sponsor; and (b) the maximum amount of Piling Costs to be reimbursed by the State shall be limited to not more than Twenty Million Dollars (\$20,000,000.00) out of a total of Forty Million Dollars (\$40,000,000.00) or more of Piling Costs.

6.4. Incentive Loan. Subject to the terms and conditions of this Agreement and the Incentive Loan Documents, the Authority shall make the Incentive Loan to the Sponsor as follows:

(a) Amount Funded; Principal Amount. In order to fund the Incentive Loan and in consideration of the Sponsor's promissory note evidencing the Incentive Loan, the Authority will make available from the Bond proceeds the sum of Fifty Million Dollars (\$50,000,000.00) for disbursement to the Sponsor under Section 7 hereof. The promissory note evidencing the Incentive Loan shall be in a principal amount equal to Fifty Million Dollars (\$50,000,000.00).

(b) Incentive Loan Collateral. The proceeds of the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes. The Incentive Loan shall be secured by a first priority, perfected, purchase-money lien and security interest in the Incentive Loan Collateral subject to the terms and conditions of the Inter-Creditor Agreement.

(c) Debt Service. Interest will accrue on the Incentive Loan at the rate payable on the Bonds issued to fund the Incentive Loan, beginning twenty-four (24) months after the Closing Date. The payment of principal and interest due on the Incentive Loan shall be structured as nearly as possible to correspond with debt service payments due on the Bonds issued to fund the Incentive Loan (excepting interest accruing on such Bonds during the first twenty-four (24) months following their date of issuance, which shall be fully borne by the State). The first payment of debt service on the Incentive Loan is projected at this time to be due from the Sponsor on the first day of the thirtieth (30th) month following the Closing Date. A debt service schedule detailing the semiannual debt service payments due on the Incentive Loan (and the principal and interest components thereof) will be attached to the promissory note evidencing the Incentive Loan. In no event shall the total debt service payments due on the Incentive Loan or the net present value of such payments exceed the total debt service payments, or the net present value of such payments, due on the Bonds issued to fund the Incentive Loan. For purposes of determining the net present value of such total debt service payments, the total debt service payments will be discounted at a rate equal to the lesser of the true interest cost on the Bonds issued to fund the Incentive Loan or the rate agreed upon by the Authority and the Sponsor with respect to the Bonds issued to fund the Incentive Loan.

(d) Term. The Incentive Loan shall have a term of twenty (20) years commencing on the Closing Date.

(e) Prepayment. The Sponsor may prepay the Incentive Loan in whole or in part without penalty at any time beginning twenty-four (24)

months after the Closing Date. The portion of any repayment in part that is attributable to principal shall be applied to satisfy principal component(s) of the Bonds issued to fund the Incentive Loan being redeemed in connection with the prepayment and the Authority shall promptly thereafter provide a revised debt service schedule for approval by the Sponsor and attachment to the promissory note. In the event the Sponsor meets the conditions in this Section 6.4(e) and the Sponsor elects to prepay the Incentive Loan in full prior to the expiration of forty-eight (48) months after the Closing Date, the prepayment amount shall be equal to Forty-five Million Dollars (\$45,000,000.00) million less any principal amount of the Incentive Loan previously paid by the Sponsor plus any accrued interest on the Incentive Loan outstanding through the prepayment date. To qualify for the discount of the prepayment amount, both of the following conditions must be met: (1) within four (4) years after the Closing Date the Sponsor shall have obtained Capital Commitments, as audited and verified by the Commission and Authority, of at least Five Hundred Million Dollars (\$500,000,000.00) (in addition to the Investment Requirement) with respect to an expansion of the steel mill operations of the Sponsor at or near the Project Site; and (2) construction of such expansion shall have commenced prior to the date of the receipt of the prepayment by the State.

6.5. Other Costs. An amount up to Five Million Dollars (\$5,000,000.00) may be funded through the Bonds for the purpose of paying reasonable and necessary closing costs and expenses of the State, in the sole and absolute discretion of the Authority, including those that relate to the issuance of the Bonds and including costs and expenses due to those trustees, agents, underwriters, attorneys, advisors, and consultants performing services on behalf of the State in connection with the Project. The Sponsor shall not be responsible for any of such costs and expenses.

6.6. Related Entities. In the event that the Sponsor may elect for any part of the Amendment 82 Financing to be paid to or received by a Related Entity to the Sponsor, the Sponsor shall notify the Commission and the Authority. As a prior condition to the payment or receipt of any part of the Amendment 82 Financing, such Related Entity of the Sponsor shall execute and deliver a joinder to this Agreement in which such Related Entity shall agree to comply with all of the terms and conditions of this Agreement.

7. Disbursement.

7.1. Investment Threshold. Prior to any disbursement of funds by the State with respect to the Grants or the Incentive Loan, the Sponsor shall provide written confirmation to the Commission and the Authority that the Sponsor has achieved the Investment Threshold by investment of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Qualifying Site Preparation Costs, Piling Costs, and Infrastructure Costs. The Commission and the Authority shall have the right to audit and verify the investment of the Investment

Threshold before disbursing funds to, or for the benefit of the Sponsor, with such audit and verification to be conducted in a timely manner. After the Investment Threshold shall have been achieved, the Actual Project Capital Expenditures that comprise the Investment Threshold may be eligible for reimbursement through a disbursement from the Grants or the Incentive Loan, as applicable.

7.2. Generally. All funds to be disbursed by the State with respect to the Grants and Incentive Loan shall require the prior approval of the Commission and the Authority. All funds to be disbursed by the State with respect to the Grants and the Incentive Loan shall be disbursed to, or for the benefit of, the Sponsor, for payment or reimbursement of qualified project costs and expenses permitted by the Amendment 82 Requirements with such qualified project costs and expenses to include Qualifying Site Preparation Costs, Infrastructure Costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and approved as eligible by the State. The disbursement of funds with respect to the Incentive Loan shall also be subject to the terms and conditions of the Incentive Loan Documents.

7.3. Procedure. Subject to the terms and conditions of this Agreement, the Grants and the Incentive Loan shall be disbursed by the State to, or for the benefit of, the Sponsor in one (1) or more disbursements. The Sponsor may request a disbursement from the Grants or the Incentive Loan by submitting a Request for Disbursement to the Commission and the Authority. The Request for Disbursement shall specify the requested source of funding from either the Grants or the Incentive Loan. A Request for Disbursement shall include an itemization of each cost and expense for which the Sponsor may request payment or reimbursement. In support of a Request for Disbursement, the Sponsor shall provide a copy of all receipts, invoices, bills, statements, checks, payments, orders, correspondence, notices, and other documents sent, received, or exchanged with respect to each cost and expense identified in the Request for Disbursement. The Sponsor shall provide the State with full access to all documents, records, and other information in the possession of or available to the Sponsor that may relate to each cost and expense identified with respect to a Request for Disbursement. The State may audit and verify all such documents, records, and other information and may take all other reasonable actions to verify that each cost and expense identified with respect to a Request for Disbursement shall have been actually paid or incurred by the Sponsor, the reasonableness of the nature and amount of the cost and expense, and whether the cost and expense may be properly characterized as Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, or other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. Upon completion of the audit and verification by the State of the costs and expenses identified in a Request for Disbursement, the Authority shall send a Notice of Payment to the Sponsor setting forth the amount approved by the Commission and the Authority to be disbursed by the State with

respect to the costs and expenses identified in a Request for Disbursement and the source of funding from either the Grants or the Incentive Loan. Within five (5) business days after the date of a Notice of Payment, the State shall cause the amount set forth in the Notice of Payment to be disbursed to, or for the benefit of, the Sponsor by wire transfer to the account of the Sponsor designated in the Request for Disbursement.

7.4. Eligible Costs and Expenses. A Request for Disbursement may request reimbursement of Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. A Request for Disbursement may include only such costs and expenses that constitute Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. With respect to any cost and expense that shall not constitute Qualifying Site Preparation Costs, Infrastructure Costs, or Piling Costs, the State shall determine whether such other cost and expense shall be incidental to the Project and whether such cost and expense shall be eligible for Amendment 82 Financing. A Request for Disbursement may not include any cost or expense that shall have been included in any prior Request for Disbursement. All Requests for Disbursement must be submitted by the Sponsor to the State no later than twenty-four (24) months after the Closing Date.

8. Training Benefits. The Commission shall assist the Sponsor in recruiting and training employees and independent contractors who shall work at the Facility or on the Project Site. The Commission and the Sponsor shall enter into the Training Agreement regarding the assistance to be provided to the Sponsor. Subject to the terms and conditions of this Agreement and the Training Agreement, the Commission shall fund up to Ten Million Dollars (\$10,000,000.00) by payment or reimbursement of costs and expenses paid or incurred by the Sponsor for training activities and facilities with respect to the employees and independent contractors who shall work at the Facility or on the Project Site. The funds disbursed to, or for the benefit of, the Sponsor for such training activities and facilities shall be in addition to the Amendment 82 Financing described in this Agreement and shall be spread equally over a period of two (2) years based on a schedule of on-the-job training determined by the Sponsor in consultation with the Commission. The assistance to be provided by the Commission pursuant to the Training Agreement shall include the following support services: (a) recruitment advertising for new employees; (b) securing the use of facilities for accepting applications and interviewing new employees; (c) reproduction of training manuals; (d) reimbursement of compensation to instructors for on-the-job training (up to, but not to exceed actual hourly rate of pay); (e) on-site training facility space; and (f) reimbursement for train-the-trainer expenses, including reasonable expenses of travel. Requests for reimbursement shall provide the Commission, at a mini-

mum, with the information described in paragraphs I(A) and I(B) of the form of Training Agreement.

9. Other Incentive Programs.

9.1. Advantage Arkansas Program. The Sponsor may be eligible for a job creation income tax credit provided pursuant to the Advantage Arkansas Program. The Advantage Arkansas Program provides an income tax credit against a portion of State income tax liabilities based upon a percentage of the annual payroll paid to the new full time permanent employees hired as a result of an approved project. To receive the income tax credit of the Advantage Arkansas Program, the Sponsor must enter into a Financial Incentive Agreement. The tier of the county in which the approved project is located determines the qualifying payroll threshold, as well as the income tax benefit calculation. Counties are segmented into four (4) tiers based on poverty rate, population growth, per capita income, and unemployment rate. Based on the location of the Project Site, the Sponsor may be entitled to an income tax credit up to four percent (4%) of the total taxable wages paid to new full time permanent employees hired after the date of the Financial Incentive Agreement. The annual payroll thresholds of the new employees must be met within twenty-four (24) months following the date the Financial Incentive Agreement is signed by the Commission. Employees must be taxpayers of the State to qualify for the credit. The income tax credit begins in the year in which the new employees are hired and is earned each tax year for a period of five (5) years. Any unused credits can be carried forward for nine (9) years beyond the year in which they were earned. The Sponsor may apply the credit to its State income tax liability, not to exceed fifty percent (50%) of the total income tax liability for a reporting period. The income tax credit provided by the Advantage Arkansas Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.2. Tax Back Program. The Sponsor may be eligible for a refund of state and local sales and use taxes provided pursuant to the Tax Back Program. The Tax Back Program provides for a refund of a portion of state and local sales and use taxes paid on certain purchases of material used in the construction of a building or buildings and on purchases of taxable machinery or equipment to be located in or in connection with such building or buildings. To qualify for the refund provided by the Tax Back Program, the Sponsor must: (a) invest a minimum of One Hundred Thousand Dollars (\$100,000.00); (b) execute the Advantage Arkansas Agreement within the appropriate time as required by applicable law; and (c) submit a completed application accompanied by a local endorsement resolution from the city, county or both where the Project Site is located and which authorizes the refund of its local taxes to the Sponsor. The refund shall not include the portion of the sales tax dedicated to the Educational Adequacy Fund described in A.C.A. § 19-5-1227 and the Conservation Tax Fund as described in A.C.A. § 19-6-484. These two (2) exceptions reduce the refund by one percent (1%). Currently, the State sales tax rate is six percent (6%), and

therefore, the refund of State taxes shall be based upon five percent (5%) of the eligible taxable purchases. The refund of local taxes shall be based on the sales tax rate for the city and county where the Project Site is located. The refund provided by the Tax Back Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.3. Recycling Equipment Tax Credit Program. The Sponsor may be eligible for an income tax credit provided pursuant to the Recycling Equipment Tax Credit Program. The Recycling Equipment Tax Credit Program provides for an income tax credit for thirty percent (30%) of the cost of eligible equipment and installation costs and expenses. Eligibility for the Recycling Equipment Tax Credit Program is determined by the Arkansas Department of Environmental Quality. If the Sponsor otherwise qualifies for the Recycling Equipment Tax Credit it may also qualify under the Recycling Credit Legislation to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.4. Utility Tax. The Sponsor may be eligible for a reduced rate of sales taxes with respect to purchases of electricity and natural gas used directly in the manufacturing process. The Utility Tax Legislation will provide a full exemption of sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.5. Machinery & Equipment Tax Exemptions. The Sponsor may be eligible for an exemption from state and local sales and use taxes with respect to purchases of machinery and equipment used directly in manufacturing for a new manufacturing facility or to replace existing machinery and equipment for a manufacturing facility. Machinery and equipment required by the State's laws to be purchased for air or water pollution control shall be also exempt.

10. Joint Marketing Agreement. The Commission and the Sponsor shall enter into the Joint Marketing Agreement whereby each shall commit to spend up to One Hundred Fifty Thousand Dollars (\$150,000.00) per calendar year for each of three (3) years beginning no later than twelve (12) months after the Closing Date, to market and advertise steel companies based in the State to out-of-state suppliers, vendors, and customers for the purpose of marketing the State as the right place for out-of-state suppliers, vendors, and customers to locate their business or to market or consume the products produced by steel companies based in the State. The expenditures by the Commission with respect to the Joint Marketing Agreement shall be in addition to

the Amendment 82 Financing described in this Agreement.

11. Consequences of Unsatisfied Obligations.

11.1. Generally. The Sponsor shall pay to the State certain amounts to be determined by the applicable Repayment Calculations set forth in this Section 11 in the event the Sponsor shall fail to: (a) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (b) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (c) maintain the Position Creation Requirement during the Test Period. The total amount to be paid by the Sponsor pursuant to any or all of the Repayment Calculations shall not exceed the maximum amount of the lesser of: (i) Seventy Million Dollars (\$70,000,000.00) or (ii) the total amount disbursed by the State pursuant to the Grants. Any amounts determined to be due from the Sponsor to the State pursuant to this Section 11 shall be paid by the Sponsor to the State not later than thirty (30) days following the receipt of written notice by the Sponsor from the Commission. In no case shall the Sponsor be entitled to additional funds from the State as a result of the Repayment Calculations.

11.2. Repayment Calculation — Investment Requirement. If, at the expiration of the Preliminary Period, the Sponsor has made or caused to be made Actual Project Capital Expenditures of less than One Billion Dollars (\$1,000,000,000.00), the Sponsor shall pay to the State an amount equal to one-half of one percent (0.50) of the difference between One Billion Dollars (\$1,000,000,000.00) and the Actual Project Capital Expenditures.

11.3. Repayment Calculation — Employment Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has not achieved and maintained the Employment Target, but employs at least fifty-five (55) individuals in Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the total qualified Direct Positions and Independent Direct Positions to five hundred twenty-five (525), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.3 on the first Test Date at the expiration of the Preliminary Period, the Employment Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which are filled on a full-time basis of at least thirty (30) hours per week for a period of four and one-half months (4 1/2) months during the six (6) months prior to the first calculation pursuant to this Section 11.3.

11.4. Repayment Calculation — Compensation Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has employed a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, but has not met the Compensation Target, the Sponsor upon written notice shall pay to the State an

amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the average annual compensation of all those Direct Positions and Independent Positions as designated by the Sponsor to Seventy-five Thousand Dollars (\$75,000.00), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.4 on the first Test Date at the expiration of the Preliminary Period, the average annual compensation shall be calculated by using the amount of compensation paid during months thirty-one (31) through thirty-six (36) after the Closing Date to full-time Direct Positions and Independent Direct Positions designated by the Sponsor and then multiplied by two (2).

11.5. Repayment Calculation — After Preliminary Period. If, at any time after the expiration of the Preliminary Period, as measured annually on the Test Date, the Sponsor shall not maintain a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) multiplied by the number of years, beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Sections 11.2, 11.3, and 11.4.

11.6. Tax Incentive Penalties. The repayment obligations described in this Section 11 shall be in addition to any provisions of the State's laws pertaining to repayment, recalculation, or penalties in the event the Sponsor shall receive a benefit or economic incentive, including the Amendment 82 Financing described in this Agreement, for which the Sponsor shall later be deemed to have been ineligible.

11.7. Other. In the event that the Sponsor shall fail to comply with the terms and conditions of this Agreement other than those terms and conditions relating to the Investment Requirement and the Position Creation Requirement, the Sponsor may also be subject to penalties or remedies permitted by applicable law.

12. Conditions of the State. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the State pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

12.1. Negotiation and execution of all documents pertaining to the issuance of the Bonds on terms and conditions satisfactory to the State.

12.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the State.

12.3. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

12.4. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

12.5. Negotiation and execution of the Inter-Creditor Agreement on terms and conditions satisfactory to the State.

12.6. Negotiation and execution of the Escrow Agreement for the Capital Commitments on terms and conditions satisfactory to the State.

12.7. The closing of all transactions in connection with the Capital Commitments.

12.8. The Bonds shall have been sold and delivered by the Authority on terms and conditions satisfactory to the State.

12.9. All of the covenants and obligations that the Sponsor is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

13. Conditions of the Sponsor. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the Sponsor pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

13.1. Satisfactory negotiation and execution of all documents pertaining to the issuance of the Bonds.

13.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the Sponsor.

13.3. Negotiation and execution of the Advantage Arkansas Agreement, the Escrow Agreement with respect to the Capital Commitments, the Financial Incentive Agreement, the Joint Marketing Agreement, the Training Agreement, and all other contracts specifically identified in this Agreement on terms and conditions satisfactory to the Sponsor.

13.4. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

13.5. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

13.6. Approval by the Sponsor of the Capital Commitments and the closing of all transactions in connection with the Capital Commitments.

13.7. Negotiation and execution of an agreement between the Sponsor and Mississippi County, the City of Osceola, Arkansas or another local entity for the acquisition and lease of the Project Site on terms and conditions satisfactory to the Sponsor.

13.8. Issuance of the relevant Governmental Authorities of the State of all required environmental, construction, and operating permits prior to the Closing Date.

13.9. Negotiation and execution of a satisfactory long-term electrical

power contract for the Facility on terms and conditions satisfactory to the Sponsor.

13.10. All of the covenants and obligations that the State is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

14. Due on Sale.

14.1. No Assumption. If a Change of Control Event is announced by the Sponsor and the Announced Controlling Party shall not agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party to pay to the State prior to consummation of the Change of Control Event an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; and (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Section 11 as a result of failing to achieve and maintain the Employment Target or the Compensation Target.

14.2. Assumption Subsequent to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor subsequent to the Investment Requirement having been satisfied and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determine that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party prior to consummation of the Change of Control Event to fund an Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period divided by two (2) with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from such Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party maintains the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the Change of

Control Event and the end of the Preliminary Period, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. The rights of the State upon a Change of Control Event will include, among other rights, the proportional right to vote alongside all other Senior Term Lenders on matters related to any Change of Control Event. The Commission and the Authority shall not have the right to seek the establishment of the Escrow Account if a majority of the Senior Term Lenders inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party, commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms and conditions as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event. A majority of the Senior Term Lenders shall be determined by the amounts due by the Sponsor to each such Senior Term Lender inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party immediately prior to the execution of definitive documents related to the Change of Control Event.

14.3. Assumption Prior to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor prior to the Investment Requirement having been met and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determines that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party, prior to consummation of the Change of Control Event, to fund the Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year during the Test Period in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from the Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party shall achieve and maintain the Employment Target and the Compensation Target for the six (6) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. If the Announced Controlling Party shall fail to achieve and maintain the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow

Account, all amounts in the Escrow Account shall be released to the State and shall become the property of the State and neither the State, the Commission, nor the Authority shall have any obligation to make any of such funds available to the Announced Controlling Party or any other Person. The Commission and the Authority shall have the right to seek the establishment of the Escrow Account whether or not a majority of the Senior Term Lenders commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event.

14.4. Assumption Prior to End of Availability of Economic Incentives. If a Change of Control Event is announced by the Sponsor, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor prior to the announcement of the Change of Control Event shall no longer be available to either the Sponsor or the Announced Controlling Party. If the announced Change of Control Event shall not be consummated and no more than nine (9) months have elapsed since the Change of Control Event was first announced and the Sponsor provides written notice that the announced Change of Control Event shall not be consummated, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor shall be reinstated and shall be available to the Sponsor as set forth in this Agreement, to the extent consistent with applicable law.

15. Confidentiality and Non-Disclosure. The Parties recognize that certain information and records provided by the Sponsor to the Commission or the Authority include trade secrets or other information which, if disclosed, would give advantage to competitors of the Sponsor, or include records related to the Sponsor's planning, site location, expansion, operations, product development or marketing (collectively, "Confidential Business Information"). Such records are generally exempt from public disclosure under the terms of the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq. Neither the Parties to this Agreement nor any Related Entity, affiliate, or representative of any Party, shall make any disclosure of Confidential Business Information without the prior written consent of any other Party; provided however, that a Party may make such a disclosure without the consent of any other Party if the disclosure is: (a) compelled by legal, accounting, or regulatory requirements applicable to and beyond the reasonable control of the Party; (b) necessary to proceed with the intentions and agreements contained in this Agreement as they specifically relate to any Related Entity, affiliate, or representative of any Party; (c) necessary to obtain legislative approval of the undertakings set forth in this Agreement; or (d) required under applicable law binding upon the disclosing Party. The Party making a disclosure described in (c) of this Section 15 shall give prior written notice of the proposed disclosure to

the other Party. The Party making a disclosure described in (a) or (d) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party if the disclosing Party can do so and still comply with the requirement or law compelling the disclosure; otherwise the disclosing Party shall give written notice contemporaneously with or as soon as reasonably practicable following the disclosure.

16. Incentives Not Accepted. To the extent that the Sponsor shall not accept for whatever reason any portion of the funds or economic incentives set forth in this Agreement, neither the State, the Commission, nor the Authority shall have any obligation to replace the value of the funds or economic incentives not accepted, inclusive of the value of any matching funds, with other funds or economic incentives.

17. Public Reporting Requirements. The Sponsor acknowledges and agrees to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with the State by providing such documents, records, and other information to the State as may be necessary to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with all audits and verifications by the State, including without limitation the Commission and the Authority, of all accounts related to the construction, operation, and maintenance of the Project. The Sponsor shall maintain and make available all documents, records, and other information pertaining to items contained in the terms and conditions of this Agreement for annual audit by the Chief Fiscal Officer, and upon request, but no more often than annually, by the Office of Economic and Tax Policy or a Person retained by the Office of Economic and Tax Policy. The Sponsor shall comply with all auditing and reporting requirements of any state or federal regulatory agency or other Governmental Authority that may have jurisdiction over the Sponsor. The Sponsor shall cause all Related Entities of Sponsor who receive Amendment 82 Financing to comply with the reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision).

18. Reporting of Independent Direct Positions. The Sponsor shall cause each Person that employs or contracts with an individual holding an Independent Direct Position to provide to the State such documents, records, and other information as may be necessary to comply with the audit requirements of the Act, including those set forth in A.C.A. §§ 15-4-3206 (2011 Revision). For the purposes of Sections 4 and 11 of this Agreement no position or job may be counted as an Independent Direct Position unless the person who employs or contracts the individual holding such position or job fully complies with the State's requests for information necessary to comply with the audit and reporting provisions of the Act.

19. Representations and Warranties. In order to induce the State to enter into this Agreement, the Sponsor hereby represents and warrants to the State as follows:

19.1. Names. The correct legal name of the Sponsor is “Big River Steel, LLC”.

19.2. Organization of the Sponsor. The Sponsor is a limited liability company duly organized, validly existing, and in good standing pursuant to the laws of the State of Delaware. The Sponsor is duly licensed and qualified as a foreign limited liability company with the State.

19.3. Authorization. The Sponsor has full power and authority to execute and deliver this Agreement and to perform the obligations of the Sponsor pursuant to this Agreement. The Sponsor has duly authorized the execution, delivery, and performance of this Agreement. This Agreement constitutes the valid and legally binding obligation of the Sponsor enforceable in accordance with its terms and conditions. The undersigned officer of the Sponsor is the lawful agent of the Sponsor with the authority to execute and deliver this Agreement.

19.4. Purpose. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Grants shall be used by the Sponsor solely for purposes of the Qualifying Site Preparation Costs and the Infrastructure Costs. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes.

19.5. Non-contravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement shall: (a) violate any applicable law including the Amendment 82 Requirements; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create the right to accelerate, terminate, modify, cancel, or require any notice pursuant to the Capital Commitment Documents and any other material contract or lease to which the Sponsor may be a party or by which the Sponsor may be bound or to which the Incentive Loan Collateral may be subject; or (c) violate or conflict with the articles of organization, the operating agreement, and other governing documents of the Sponsor.

20. General Covenants. In addition to the covenants of the Sponsor set forth elsewhere in this Agreement, the Sponsor covenants and agrees as follows:

20.1. Change of Name. The Sponsor shall not change its legal name unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its name.

20.2. State of Organization. The Sponsor shall not change the jurisdiction of the organization of the Sponsor unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its jurisdiction.

20.3. Eligible Business. The Sponsor shall qualify as an “eligible business” as defined in the Consolidated Incentive Act prior to the

receipt of the Amendment 82 Financing.

20.4. Environmental. The Sponsor shall cause the Project to comply with the relevant environmental standards of applicable law. It is also intended that representations shall be made by the Project's primary technology provider that its technology meets the relevant environmental standards of the World Bank Group.

20.5. Employment Laws. The Sponsor agrees to comply with all relevant and applicable employment laws.

21. General Provisions.

21.1. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State without regard to principles of conflicts of laws that would require or permit the application of the laws of a state other than the State.

21.2. Interpretation. This Agreement shall be interpreted as follows: (a) as though the Parties shared equally in the negotiation and preparation of this Agreement; (b) gender or lack of gender of any word shall include the masculine, feminine, and neuter; (c) singular shall include plural and plural shall include singular; (d) the words "include" and "including" mean, in addition to any regularly accepted meaning, "without limitation" and "including but not limited to"; (e) references to Sections refer to Sections of this Agreement; (f) subject headings, captions, and titles shall not affect the interpretation of this Agreement; (g) as a solicitation for offers until this Agreement shall have been executed and delivered by all Parties; (h) the definition of any term in this Agreement shall apply to all uses of such term whenever capitalized; and (i) any Exhibits to this Agreement shall be incorporated into this Agreement as though fully set forth word for word in this Agreement.

21.3. Business Day. If any provision of this Agreement shall require the performance of an obligation or the exercise of a right on a date that shall be a legal holiday pursuant to applicable law, a Party may postpone the performance of such obligation or the exercise of such right until the next business day pursuant to applicable law.

21.4. Currency. Any reference to dollars or money in this Agreement shall mean legal tender of the United States of America. Any amount required to be paid by a Party pursuant to this Agreement shall be paid by check or electronic transfer payable to the order of the Party to receive such amount.

21.5. Time for Performance. Time shall be of the essence.

21.6. Brokers. The State shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the Sponsor. The Sponsor shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the State.

21.7. Expenses. Except as provided in this Agreement, each Party shall pay all expenses incurred by such Party with respect to: (a) the negotiation, preparation, execution, delivery, and performance of this Agreement; and (b) the transactions contemplated by this Agreement.

21.8. Force Majeure. A Party shall bear no responsibility or liability

for non-performance of obligations under this Agreement caused by, and during the duration of, major events beyond its reasonable control, such as an act of God, emergency, fire, casualty, lockout or strike, unavoidable accident, riot, war, terrorism, financial market disruption, computer virus or similar threat, or other force majeure. A Party affected by such a major event shall send written notice to all Parties of the nature and extent of the major event within sixty (60) days after the occurrence of the major event and again within sixty (60) days following the conclusion of the major event.

21.9. Notice. All notices, demands, requests, and other communications required by this Agreement shall be in writing and shall be delivered to a Party by either: (a) personal delivery; (b) overnight delivery service with delivery costs and expenses prepaid and receipt of delivery requested; (c) certified or registered mail with postage prepaid and return receipt requested; or (d) by electronic mail to the persons then holding the titles below. All notices, demands, requests, and other communications permitted or required by this Agreement shall be delivered to the Parties at the following addresses unless another address shall be designated by a Party by notice pursuant to the provisions of this Section:

If to the State: Office of the Governor
 State Capitol Room 250
 Little Rock, Arkansas 72201

AND

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72101

AND

Arkansas Department of Finance and
Administration
Office of the Director
1509 West Seventh Street, Suite 401
Little Rock, Arkansas 72203-3278

AND

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the
Commission: Arkansas Economic Development Commission
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Economic Development Commission
Attn: Bryan Scoggins
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101
bscoggins@ArkansasEDC.com

If to the Authority: Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the Sponsor: Big River Steel, LLC
Attn: Mr. John Correnti
Chairman and Chief Executive Officer
1425 Ohlendorf Road
Osceola, Arkansas 72370

21.10. Amendment. This Agreement may be modified or amended only by a subsequent written agreement executed and delivered by all Parties in accordance with the requirements of the Act. The course of dealing and the course of performance among the Parties shall not modify or amend this Agreement in any respect.

21.11. Waiver. The provisions of this Agreement may be waived only by a subsequent written agreement executed and delivered by all Parties. Any delay or inaction by a Party shall not be construed as a waiver of any of the provisions of this Agreement. A waiver of any provision of this Agreement: (a) shall not be construed as a waiver of any other provision of this Agreement; (b) shall be applicable only to the specific instance and for the specific period in which the waiver may be given; (c) shall not be construed as a permanent waiver of any provision of this Agreement unless otherwise agreed by all Parties in a subsequent written agreement executed and delivered by all Parties; (d) shall not affect any right or remedy available to a Party; and (e) shall be subject to such terms and conditions as provided in a subsequent

written agreement executed and delivered by all Parties.

21.12. Binding Effect. The Parties executed and delivered this Agreement with the intent to be legally bound to its provisions. This Agreement shall inure to the benefit of, shall be binding on, and shall be enforceable by the heirs, successors, and assigns of the Parties.

21.13. Third Party Beneficiary. The Parties do not intend to create any rights pursuant to this Agreement for the benefit of any third party beneficiary except as expressly provided in this Agreement.

21.14. Severability. Each provision of this Agreement shall be severable from all other provisions of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be determined to be invalid or unenforceable by a Governmental Authority in any litigation among the Parties, such provision shall be amended, without further action by the Parties, to the extent necessary to cause such provision to be valid and enforceable.

21.15. Remedies. The remedies provided in this Agreement and the Act shall be cumulative and not exclusive of any remedies otherwise available to the Parties pursuant to applicable law.

21.16. Conflicts. If there shall be an irreconcilable conflict between the provisions of this Agreement and the provisions of any other document with respect to the transactions contemplated by this Agreement including the Formal Proposal and the Letter of Commitment, the provisions of this Agreement shall prevail and the conflict shall be resolved by reference only to the provisions of this Agreement. To the extent there may be an irreconcilable conflict between the Amendment 82 Requirements and the provisions of this Agreement, the Amendment 82 Requirements shall prevail. To the extent there may be an irreconcilable conflict between the requirements of the Consolidated Incentive Act and the provisions of this Agreement, the requirements of the Consolidated Incentive Act shall prevail.

21.17. Entire Agreement. This Agreement contains the entire agreement of the Parties on the subject matters of this Agreement, and any oral or prior written understanding on the subject matters of this Agreement shall not be binding on the Parties. Each Party represents, warrants, and covenants that such Party has not been influenced to enter into this Agreement by any Person and has not relied on any representation, warranty, or covenant of any Person other than as set forth in this Agreement.

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EXECUTED and DELIVERED as of March ____, 2013.

THE STATE OF ARKANSAS

By: Governor, Mike Beebe

By: President Pro Tempore of the Senate,
Michael Lamoureux

By: Speaker of the House of Representatives,
Davy Carter

By: Chief Fiscal Officer and Director of the
Department of Finance and Administration,
Richard Weiss

By: Director of the Arkansas Economic
Development Commission,
Grant Tennille

By: President of the Arkansas Development
Finance Authority, Mac Dodson

THE SPONSOR
BIG RIVER STEEL, LLC

By: Chairman and Chief Executive Officer,
John Correnti

EXHIBIT 2 INCENTIVE LOAN COLLATERAL

Hot Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
001	Meltshop
002	Tunnel Furnace Building
003	Hot Mill / Roll Shop Building
Total	\$44,100,000

Cold Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
Total	\$30,000,000

Total Collateral Value for Incentive Loan = \$74,100,000

EXHIBIT 3 PROJECT SITE

ALL OF SECTION 19, SOUTH OF HWY 198, containing in the aggregate 485 acres, more or less. THIS PORTION OF SECTION 19 IS LESS AND EXCEPT THE $W\frac{1}{2}$ OF THE $W\frac{1}{2}$ being 155 acres, more or less.

THE $S\frac{1}{2}$ and the $E\frac{1}{2}$ of the $NE\frac{1}{4}$ OF SECTION 20, containing 383 acres, more or less.

ALL OF SECTION 21, containing 452 acres, more or less. LESS AND EXCEPT LEVEE AND RIVER EROSION, containing 150 acres, more or less.

THE $NW\frac{1}{4}$ OF SECTION 22, LESS AND EXCEPT RIVER EROSION, containing 67 acres, more or less.

THE $NE\frac{1}{4}$ $NE\frac{1}{4}$ OF SECTION 29 WEST OF LEVEE containing 29 acres, more or less; and THE $N\frac{1}{2}$ OF SECTION 29 EAST OF LEVEE containing 166 acres, more or less.

THE $N\frac{1}{2}$ OF SECTION 30, containing in the aggregate 210 acres, more or less. THIS PORTION OF SECTION 30 IS LESS AND EXCEPT THE $W\frac{1}{2}$ OF THE $NW\frac{1}{4}$ containing 80 acres, more or less; AND ALSO LESS AND EXCEPT A PARCEL IN THE $SE\frac{1}{4}$ $SE\frac{1}{4}$ being 47 acres, more or less.

ALL OF THE ABOVE SECTIONS ARE IN TOWNSHIP 12 NORTH, RANGE 11 EAST of the Osceola District of Mississippi County, Arkansas.

Containing in the aggregate 1792 acres, more or less.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that unemployment levels within this state are unacceptably high; that additional incentives are needed to encourage the location and expansion of manufacturing facilities within this state and to provide additional job opportunities for our citizens; that this act is designed to provide the incentives needed to encourage certain manufacturers to locate their facilities within this state thereby creating additional job opportunities for our citizens; that the development and completion of a mini-mill steel manufacturing facility by Big River Steel, LLC is important to the economic health of the state and its citizens; and that this act is immediately necessary because any delay in the effective date of this act will delay completion of the mini-mill steel manufacturing facility by Big River Steel, LLC and the creation of new jobs in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

20. AMEND. 91. [GENERAL OBLIGATION FOUR-LANE HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS]

SECTION 1. Intent.

The people of the State of Arkansas find that:

(a) The state has an outdated and inadequate system of highway funding that is unable to meet the severe and pressing needs to maintain and improve the state's system of state highways, county roads, and city streets;

(b) Increasing investment in the state highway system, county roads, and city streets will create jobs, aid in economic development, improve quality of life, and provide additional transportation infrastructure, including specifically, a four-lane highway construction plan designed to connect all regions of the state; and

(c) To provide additional funding for the state's four-lane highway system, county roads, and city streets, this amendment levies a temporary sales and use tax and authorizes general obligation highway construction and improvement bonds for the state's four-lane highway system.

SECTION 2. Definitions.

As used in this amendment:

(a) "Bonds" means the State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds as authorized in this amendment;

(b) "Chairman" means the chair of the Arkansas Highway Commission;

(c) "Chief fiscal officer" means the Director of the Department of Finance and Administration;

(d) "Commission" means the State Highway Commission;

(e) "Debt service" means all amounts required for the payment of principal of, interest on, and premium, if any, due with respect to the bonds in any fiscal year, along with all associated costs, including without limitation the fees and costs of paying agents and trustees, and remarketing agent fees;

(f) "Designated tax revenues" means:

(1) Taxes collected under this amendment and apportioned to the Arkansas State Highway and Transportation Department Fund under § 27-70-206 collected over an approximate ten-year period; and

(2) Other fees or taxes that are dedicated to the repayment of the bonds; and

(g) (1) "Four-lane highway improvements" means construction of and improvements to:

(A) Four-lane roadways;

(B) Bridges;

(C) Tunnels;

(D) Engineering;

(E) Rights-of-way; and

(F) Other related capital improvements and facilities appurtenant or pertaining thereto, including costs of rights-of-way acquisition and utility adjustments.

(2) "Four-lane highway improvements" also means the maintenance of four-lane highway improvements constructed with proceeds of the bonds.

SECTION 3. Levy of Temporary Tax. (a)(1) Except for food and food ingredients, a temporary additional excise tax of one-half percent (0.5%) is levied on all taxable sales of property and services subject to the tax levied by the Arkansas Gross Receipts Act of 1941.

(2) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting and payment of all other Arkansas gross receipts taxes.

(b)(1) Except for food and food ingredients, a temporary additional excise tax of one-half percent (0.5%) is levied on all tangible personal property and services subject to the tax levied by the Arkansas Compensating Tax Act of 1949.

(2) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting and payment of Arkansas compensating taxes.

SECTION 4. Authorization and purpose.

(a) The State Highway Commission may issue State of Arkansas Four-Lane Highway Construction and Improvement General Obligation Bonds ('bonds') in a total principal amount not to exceed one billion, three hundred million dollars (\$1,300,000,000) for the purpose of:

(1) Accelerating four-lane highway improvements in progress or scheduled as of January 1, 2011;

(2) Funding new four-lane highway improvements not in progress or scheduled as of January 1, 2011;

(3) Providing matching funds in connection with federal highway programs for four-lane highway improvements; and

(4) Paying the costs of issuance of the bonds.

(b) The bonds may be issued in one (1) or more series at times, in amounts, and bearing the designations as the commission in consultation with the chief fiscal officer determines.

(c)(1) The bonds shall be general obligations of the State of Arkansas, secured by and payable from the general revenues of the state as set forth in Section 15 of this amendment.

(2) The bonds shall be payable first from the following designated revenues:

(A) Portion of the proceeds of the additional one-half of percent (0.5%) excise tax on gross proceeds or gross receipts; and

(B) Portion of the proceeds of the additional one-half percent (0.5%) compensating excise tax; and

(C) Other revenues designated by the General Assembly for this purpose.

(d)(1) If the amendment is approved, the sales tax and the use tax will be collected over an approximate ten-year period, and so long as the bonds are outstanding.

(2) The sales and use tax shall terminate upon payment in full of the bonds.

(3) If the amendment is not approved, the sales and use taxes shall not be levied and collected.

SECTION 5. Use of proceeds. (a) There is established on the books of the Treasurer of State, Auditor of State, and the chief fiscal officer of the State a special account within the State Highway and Transportation Department Fund to be designated as the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(b)(1) On the last day of each month, the Treasurer of State, after making the deductions required from the net special revenues as set out in § 19-5-203(b)(1), shall transfer the revenues derived by the one-half cent (0.5¢) taxes levied under this amendment to the State Highway and Transportation Department Fund, the County Aid Fund and the Municipal Aid Fund in the percentages provided in the Arkansas Highway Revenue Distribution Law, § 27-70-201 and § 27-70-206.

(2) The proceeds of the excise taxes transferred to the State Highway and Transportation Department Fund shall be set aside and transferred to the Arkansas Four-Lane Highway Construction and Improvement Bond Account and used for the purposes provided for in this

amendment.

(3) The tax revenues accruing from this amendment shall not be designated as special revenues for deposit to the Arkansas Department of Aeronautics Fund under § 27-115-110.

SECTION 6. The Arkansas Highway Revenue Distribution Law, which defines highway revenues, shall include taxes levied and collected by this amendment.

SECTION 7. Effective Date.

(a) The taxes levied by this amendment shall not become effective until after a majority of the qualified electors of the state voting on the question approve the issuance of Four-Lane Highway Construction and Improvement General Obligation Bonds to be repaid in part by the taxes levied by this amendment and deposited to the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund.

(b) If the tax levies and the issuance of the bonds are approved, the effective date of the temporary taxes levied by this amendment shall be July 1, 2013.

SECTION 8. Termination of tax.

(a) If bonds are issued under this amendment, the temporary taxes levied under this amendment shall be abolished when there are no bonds outstanding to which tax collections are pledged as provided in this amendment.

(b)(1) To provide for the accomplishment of the administrative duties of the chief fiscal officer and to protect the owners of the bonds, the tax shall be abolished on the first day of the calendar month after the expiration of thirty (30) days from the date a written statement identifying the tax and the bonds is signed by the chairman and by the trustee for the bondholders, if a trustee is serving in this capacity, and is filed with the chief fiscal officer.

(2) The written statement shall certify that:

(A) The trustee has or will have sufficient funds set aside to pay the principal of and interest on the bonds when due at maturity or at redemption prior to maturity, and the chairman certifies that the tax is not pledged to any other highway bonds; or

(B) There are no longer any bonds outstanding payable from tax collections.

(c) The Department of Finance and Administration shall continue to collect taxes levied under this section during the time the tax levies were in force but unpaid and remit the tax collections under the Arkansas Highway Revenue Distribution Law.

SECTION 9. (a) The General Assembly shall provide for the proper administration and enforcement of this amendment by law.

(b) Unless the General Assembly provides another procedure by law, the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to the taxes levied under this amendment and to the reporting, remitting, and enforcement of the tax.

SECTION 10. Procedure for issuing bonds.

Before any series of bonds may be issued:

(1)(A) The commission shall, in consultation with the chief fiscal officer, determine the estimated amount of designated tax revenues to be collected by the state in the remainder of the then current fiscal biennium.

(B) The estimated amount of designated tax revenues shall be reported to the commission and Governor;

(2) The commission shall present a report to the Governor that includes the:

(A) Highway construction and improvements to be financed with the proceeds of such series of bonds;

(B) Estimated cost of the four-lane highway construction and improvements;

(C) Amount of bonds necessary to finance such four-lane highway construction and improvements; and

(D) Estimated amount of debt service required to pay the bonds;

(3) Upon receipt of the report required under subdivision (2) of this section, the Governor shall, if he and the Commission determine that the estimated designated tax revenues and any other revenues appropriated by the General Assembly for repayment of bonds will be sufficient to pay the debt service on the series of bonds, by proclamation authorize the commission to proceed with the issuance of such series of bonds.

(4)(A) After the Governor has issued his or her proclamation with respect to one (1) or more series of bonds, the commission shall adopt a resolution authorizing the issuance of the bonds.

(B) Each such resolution shall contain the terms, covenants, and conditions as are desirable and consistent with this amendment, including without limitation the:

(i) Establishment and maintenance of funds and accounts;

(ii) Deposit and investment of tax collections and of bond proceeds; and

(iii) Rights and obligations of the state, its officers and officials, the commission, and the registered owners of the bonds.

(C)(i) Each such resolution of the commission may provide for the execution and delivery by the commission of a trust indenture or trust indentures, with one (1) or more banks or trust companies located within or outside the state, containing any of the terms, covenants, and conditions provided for in this section and other terms and conditions deemed necessary by the commission.

(ii) The trust indenture or trust indentures shall be binding upon the commission, the state, and their respective officers and officials.

SECTION 11. Terms of bonds.

(a)(1) The bonds shall be issued in series as provided for in this section in amounts sufficient to finance all or part of the costs of four-lane highway construction and improvements provided under Section 10 of this amendment.

(2) Each series shall be designated by the year in which the series

was issued, and if more than one (1) series is issued in a particular year then by alphabetical designation.

(b) The bonds of each series shall have the date or dates the commission determines and shall mature, or be subject to mandatory sinking fund redemption, over a period ending not later than ten (10) years after the date of implementation of the temporary sales and use tax.

(c)(1) The bonds of each series shall bear interest at the rate or rates determined by the commission at the sale of the bonds.

(2)(A) The bonds may bear interest at either a fixed or a variable rate.

(B) The interest may be taxable or tax-exempt or may be convertible from one (1) interest rate mode to another.

(C) The interest shall be payable at a time determined by the commission

(d) The bonds:

(1) Shall be issued in the form of bonds registered as to both principal and interest without coupons;

(2) May be in such denominations;

(3) May be made exchangeable for bonds of another form or denomination, bearing the same rate of interest;

(4) May be made payable at places within or outside the state;

(5) May be made subject to redemption prior to maturity in such manner and for such redemption prices; and

(6) May contain other terms and conditions established by the commission.

(e)(1) Each bond shall be executed with the facsimile signatures of the Governor, the chairman, and the Treasurer of the State, and shall have affixed or imprinted on the bond the seal of the State of Arkansas.

(2) Delivery of the executed bonds shall be valid, notwithstanding any change in persons holding the offices occurring after the bonds have been executed.

SECTION 12. Sale of bonds.

(a)(1) The bonds may be sold at a private sale or public sale and at terms as the commission determines to be reasonable and expedient.

(2) The bonds may be sold at a price acceptable to the commission, and the price may include a discount or a premium.

(b)(1) If the bonds are sold at a public sale, the commission shall provide notice of the offering of the bonds in a manner reasonably designed to notify the public finance industry that the offering is being made.

(2) The commission shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(c)(1) The commission may structure the sale of bonds utilizing financing techniques that are recommended by its professional advisors to take advantage of market conditions and obtain the most favorable interest rates consistent with the purposes of this amendment.

(2) The commission may enter into ancillary agreements in connec-

tion with the sale of the bonds as necessary and advisable, including without limitation bond purchase agreements, remarketing agreements, letter of credit and reimbursement agreements, and bond insurance agreements.

SECTION 13. Employment of professionals.

The commission may retain professionals it determines are necessary to issue and sell the bonds, including without limitation legal counsel, financial advisors, underwriters, trustees, paying agents, and remarketing agents.

SECTION 14. investment of proceeds.

Prior to expenditure of the proceeds from the issuance of the bonds, the proceeds from the issuance of the bonds shall be held, maintained, and invested by the trustee as provided in a resolution of the commission or as provided in a trust indenture securing the bonds.

SECTION 15. General obligation.

(a)(1) The bonds issued under this amendment shall be direct general obligations of the State of Arkansas for the payment of the debt service on which the full faith and credit of the State of Arkansas is irrevocably pledged as long as the bonds are outstanding.

(2) The bonds shall be payable from:

(A) The Arkansas Four-Lane Highway Construction and Improvement Bond Account; and

(B) General revenues of the state as that term is defined in the Revenue Stabilization Law, § 19-5-101 et seq.

(3) As necessary, the amount of general revenues is pledged to the payment of debt service on the bonds and shall be and remain pledged for these purposes.

(b)(1) This amendment shall constitute a contract between the State of Arkansas and the registered owners of all bonds issued under this amendment which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, may be enjoined by the Circuit Court of Pulaski County upon the complaint of a bond owner or a taxpayer.

(2) The court shall, in any suit against the commission, the Treasurer of State, or other officer or official of the state prevent a diversion of any funds pledged under this amendment and shall compel the restoration of diverted funds, by injunction or mandamus.

(3) Without limitation as to any other appropriate remedy at law or in equity, a bond owner may, by an appropriate action, including without limitation injunction or mandamus, compel the performance of all covenants and obligations of the state, its officers, and officials.

(c) This amendment shall not create a right of any character with respect to the bonds, and a right of any character with respect to the bonds shall not arise under the amendment, unless the first series of bonds authorized by this amendment has been sold and delivered.

SECTION 16. Sources of repayment. (a) Without in any way limiting the general obligation of the state to repay the bonds, the designated tax revenues are pledged to the payment of the debt service on the

bonds.

(b)(1) The Treasurer of State shall establish in the State Highway and Transportation Department a special account known as the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(2) The Treasurer of State shall deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account all designated tax revenues.

(3) The commission may pledge to the repayment of the bonds the full faith and credit of the state and may grant a lien upon the funds on deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(c)(1) On or before commencement of each fiscal year, the commission in consultation with the chief fiscal officer shall determine the estimated amount required for payment of debt service due on each series of bonds issued and outstanding under this amendment during the fiscal year and shall certify the estimated amount to the Treasurer of State.

(2) The Treasurer of State shall then make transfers from the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to the trustees of each series of bonds, in such amounts and at such times as shall be specified in the indentures, to:

(A) Pay the maturing debt service on each series of bonds issued and outstanding under this amendment; and

(B) Establish and maintain with the trustee for each series of bonds a reserve or reserves for payment of debt service on each series of bonds.

(d) The obligation to make transfers from the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund for the payment of debt service on, and, if applicable, a reserve for, each series of bonds is a first charge against amounts on deposit.

(e) Funds on deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund that are in excess of the obligations set forth in (d) above may be used to:

(1) Redeem bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity as set forth in the trust indentures authorizing or securing each series of bonds; or

(2) Fund additional four-lane highway construction and improvements in the manner and in accordance with the provisions set forth in the trust indentures authorizing or securing each series of bonds.

(f) If there are insufficient amounts in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to pay the debt service on bonds issued and outstanding under this amendment or to fund any necessary reserves at the required level, the State Treasurer shall transfer additional amounts to the Arkansas Four-Lane Highway

Construction and Improvement Bond Account in the State Highway and Transportation Department Fund from the general revenues of the State.

SECTION 17. Investment of revenues. (a) Moneys held in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund and any fund in the State Treasury created under this amendment shall be invested by the State Board of Finance to the full extent practicable pending disbursement for the purposes intended.

(b) Notwithstanding any other provision of law, the investments and disbursements shall be in accordance with the terms of the resolution or trust indenture authorizing or securing the series of bonds to which the fund appertains to the extent the terms of the resolution or trust indenture are applicable.

SECTION 18. Refunding bonds. (a) The commission may issue bonds for the purpose of refunding bonds previously issued under this amendment if the total amount of bonds outstanding after the refunding is completed does not exceed the total amount authorized by this amendment, and the final maturity of such refunding bonds shall not exceed ten (10) years from the date of implementation of the tax.

(b) The refunding bonds shall be general obligations of the State of Arkansas and shall be secured and sold in accordance with the provisions of this amendment.

SECTION 19. Tax Exemption.

(a)(1) All bonds issued under this amendment and interest on the bonds shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes.

(2) Profits from the sale of the bonds shall also be exempt from income taxes.

(b) The bonds shall be eligible to secure deposits of all public funds and shall be legal for investment of municipal, county, bank, fiduciary, insurance company, and trust funds.

SECTION 20. State Aid Street Fund. (a) Upon the adoption of this amendment, the Department of Finance and Administration shall:

(1) Deposit a total of one cent (1¢) per gallon from revenues distributed under the Arkansas Highway Revenue Distribution Law from the proceeds derived from existing motor fuel taxes and distillate fuel taxes; and

(2) Permanently dedicate the revenues to the State Aid Street Fund created under § 27-72-407.

(b) The State Aid Street Funds shall aid city streets under the law.

SECTION 21. Powers of the commission.

(a) All powers granted to the commission under this amendment shall be in addition to the powers as already exist under Amendment 42 to the Arkansas Constitution and the laws of the State of Arkansas.

(b) A member of the commission or other state official shall not be liable personally for any reason arising from the issuance of bonds under this amendment unless the person acts with corrupt intent.

SECTION 22. Form of submission to the electors.

The proposition set forth shall be submitted for approval or rejection by the electors in substantially the following form:

“A TEMPORARY ONE-HALF PERCENT (0.5%) SALES AND USE TAX FOR STATE HIGHWAYS AND BRIDGES, COUNTY ROADS, BRIDGES AND OTHER SURFACE TRANSPORTATION, AND CITY STREETS, BRIDGES AND OTHER SURFACE TRANSPORTATION, WITH THE STATE’S PORTION TO SECURE STATE OF ARKANSAS GENERAL OBLIGATION FOUR-LANE HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS AND PERMANENTLY DEDICATING ONE CENT (1¢) PER GALLON OF THE PROCEEDS DERIVED FROM THE EXISTING MOTOR FUEL AND DISTILLATE FUEL TAXES TO THE STATE AID STREET FUND”

On each ballot there shall be printed the following:

“FOR a proposed constitutional amendment to levy a temporary sales and use tax of one-half percent (0.5%) for state highways and bridges, county roads, bridges and other surface transportation, and city streets, bridges and other surface transportation, with the state’s portion to secure State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds in the total principal amount not to exceed \$1,300,000,000 for the purpose of constructing and improving four-lane highways in the State of Arkansas, prescribing the terms and conditions for the issuance of such bonds which will mature and be paid in full in approximately ten (10) years, which payment in full shall terminate the temporary sales and use tax, describing the sources of repayment of the bonds and permanently dedicating one cent (1¢) per gallon of the proceeds derived from the existing motor fuel and distillate fuel taxes to the State Aid Street Fund.”

“AGAINST a proposed constitutional amendment to levy a temporary sales and use tax of one-half percent (0.5%) for state highways and bridges, county roads, bridges and other surface transportation, and city streets, bridges and other surface transportation, with the state’s portion to secure State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds in the total principal amount not to exceed \$1,300,000,000 for the purpose of constructing and improving four-lane highways in the State of Arkansas, prescribing the terms and conditions for the issuance of such bonds which will mature and be paid in full in approximately ten (10) years, which payment in full shall terminate the temporary sales and use tax, describing the sources of repayment of the bonds and permanently dedicating one cent (1¢) per gallon of the proceeds derived from the existing motor fuel and distillate fuel taxes to the State Aid Street Fund.”

21. GVAB FACILITIES PROJECT — ACTS 2015 (1ST EX. SESS.), NOS. 9 AND 10.

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that the:

(1) Creation of jobs and economic growth are critical to improving the lives of the citizens of the State of Arkansas; and

(2) Arkansas Economic Development Commission has submitted for the approval of the General Assembly a proposal to issue general obligation bonds of the state to provide financing for a large economic development project.

(b) The General Assembly further finds that:

(1) The proposed project between the State of Arkansas and Lockheed Martin Corporation is a qualified project under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and Lockheed Martin Corporation qualifies as an eligible business under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.;

(2) The proposed uses of the bond proceeds described in the Amendment 82 Agreement qualify as financing for infrastructure or other needs within the meaning of Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.; and

(3) Arkansas Constitution, Amendment 82, authorizes the General Assembly to issue bonds bearing the full faith and credit of the State of Arkansas if the prospective employer planning an economic development project is eligible under the criteria established by law.

(c) The General Assembly intends for this act to authorize:

(1) The issuance of bonds under the authority granted to the General Assembly under Arkansas Constitution, Amendment 82; and

(2) Under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the execution and implementation of the Amendment 82 Agreement and other provisions necessary to carry out the Amendment 82 Agreement.

(d) As provided under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., this act includes the:

(1) Declaration of a qualified Amendment 82 project;

(2) Authorization of the execution of an agreement between the State of Arkansas and Lockheed Martin Corporation; and

(3) Authorization for the issuance of bonds bearing the full faith and credit of the State of Arkansas as authorized under Arkansas Constitution, Amendment 82.

SECTION 2. Definitions.

As used in Sections 2 through 5 of this act:

(1) "Amendment 82 Agreement" means the unexecuted document titled "Amendment 82 Agreement between the State of Arkansas and Lockheed Martin Corporation" submitted to the General Assembly and as found in Section 6 of this act; and

(2) "Project" means the construction, renovation, equipping, and operation of the following by Lockheed Martin Corporation on a site in Calhoun County, Arkansas, that is identified more specifically in the Amendment 82 Agreement:

(A) Additional facilities, known as the "GVAB facilities", for the

production of ground vehicles for the United States Department of Defense and other customers; and

(B) Additions and improvements to existing facilities, known collectively as the "additional facility", for the production of additional products not now made at the existing facility.

SECTION 3. Declaration of qualified Amendment 82 project — Authorization to execute the Amendment 82 Agreement.

(a) The General Assembly:

(1) Finds that the project:

(A) Qualifies as a large economic development project for which the issuance of general obligation bonds is authorized under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., as supplemented by this act; and

(B) Is of the nature intended by the electors of the state to be financed with bonds under Arkansas Constitution, Amendment 82; and

(2) Declares that the project is a qualified Amendment 82 project under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., as supplemented by this act.

(b) The General Assembly approves the terms of the Amendment 82 Agreement between the State of Arkansas and Lockheed Martin Corporation and authorizes the execution of the Amendment 82 Agreement in substantially the same form as presented to the General Assembly but with such changes as are approved by the officers executing the Amendment 82 Agreement on behalf of the state.

SECTION 4. GVAB and additional products production project bonds issued under Arkansas Constitution, Amendment 82.

(a)

(1) The General Assembly authorizes the Arkansas Development Finance Authority to issue general obligation bonds of the State of Arkansas in an amount not to exceed eighty-seven million one hundred forty-five thousand dollars (\$87,145,000) in the aggregate.

(2) The bonds authorized under subdivision (a)(1) of this section:

(A) Are direct general obligations of the State of Arkansas;

(B) Bear the full faith and credit of the State of Arkansas; and

(C) Are payable from general revenues or special revenues appropriated by the General Assembly.

(b) The authority shall issue the bonds under this section in accordance with the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

SECTION 5. Implementation of the Amendment 82 Agreement.

(a) The Arkansas Economic Development Commission and the Arkansas Development Finance Authority may implement the Amendment 82 Agreement consistent with this act, Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(b) If a provision of this act or of the Amendment 82 Agreement conflicts with any provision of the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the provisions of this act and the

provisions of the Amendment 82 Agreement control.

SECTION 6. Amendment 82 Agreement between the State of Arkansas and Lockheed Martin Corporation.

AMENDMENT 82 AGREEMENT

between

THE STATE OF ARKANSAS

and

LOCKHEED MARTIN CORPORATION

_____, 2015

AMENDMENT 82 AGREEMENT

THIS AMENDMENT 82 AGREEMENT (this “Agreement”) is made and entered into by and between the State of Arkansas (the “State”) and Lockheed Martin Corporation, a corporation organized under the laws of the State of Maryland (the “Sponsor”).

WITNESSETH

WHEREAS, the State, under Amendment 82 to its Constitution, may issue general obligation bonds to finance infrastructure or other needs to attract large economic development projects; and

WHEREAS, the Sponsor proposes to locate such a project in the State by way of building, improving, and operating new and existing manufacturing facilities for the production of products not now made at Sponsor’s existing facility and employing State residents in connection therewith; and

WHEREAS, the State proposes to issue bonds under Amendment 82 and grant a portion of the proceeds of the bonds’ sale to the Sponsor to finance infrastructure or other needs in connection with the project; and

WHEREAS, in consideration of the grant, the Sponsor proposes to make certain commitments to the State regarding project development, employment, and compensation; and

WHEREAS, the Arkansas Economic Development Commission (the “Commission”), on behalf of the State, made a Formal Proposal dated December 11, 2014 (the “Formal Proposal”), to the Sponsor, and tendered to the Sponsor a Letter of Commitment dated April 16, 2015 (the “Letter of Commitment”), which the Sponsor accepted and agreed to on April [16], 2015; and

WHEREAS, the Arkansas Amendment 82 Implementation Act (the “Implementation Act”) requires that the State and the sponsor of a large economic development project enter into an Amendment 82 Agreement to evidence the terms and conditions on which the State will provide Amendment 82 bond financing in exchange for the sponsor’s agreeing to make an investment and to locate a new business or substantially expand an existing business in the State in accordance with Amendment 82 and the Implementation Act; and

WHEREAS, in view of such requirement the State and the Sponsor enter into this Agreement;

NOW THEREFORE

In consideration of the mutual promises contained herein, the State and the Sponsor enter into this Agreement confirming the terms and conditions of the parties' binding agreement to proceed with funding for the project proposed by the Sponsor (the "Project" as defined in Paragraph 1 hereof), including the Amendment 82 Financing (as defined in Paragraph 8 hereof), as more fully set forth below:

1. Project. The Sponsor either owns or leases and operates facilities in Calhoun County, Arkansas for the manufacture of missiles and fire control equipment (collectively, the "Existing Facility"). The Sponsor and persons who employ FTEs in Independent Direct Positions ("Contractors") currently employ individuals whose work equals in the aggregate approximately 656 FTEs, as such term is defined in Paragraph 5 hereof, in connection with operations at the Existing Facility. FTEs employed in connection with operations at the Existing Facility are referred to in this Agreement as "Existing Facility FTEs." The Project is proposed to consist of two parts: construction, renovation, equipping and operation of additional facilities at a site near the Existing Facility and in Calhoun County (the "GVAB Facility") to manufacture ground vehicles for the United States Department of Defense ("DOD") and other customers (the "GVAB Program"), and construction, renovation, equipping and operation of additions and improvements to the Existing Facility (collectively, the "Additional Facility") to enable the Sponsor to manufacture products not now made at the Existing Facility ("Additional Products Production"). In this Agreement the term "Project Facilities" refers collectively to the Additional Facility and the GVAB Facility, and the term "Project" refers to the GVAB Program together with Additional Products Production.

2. Use of Funds for Project; Project Facilities. The Sponsor agrees to use the Grant proceeds in a timely manner to pay Eligible Costs of the Project to be funded from proceeds of the Bonds, and to construct, renovate, and equip the Project Facilities in a manner both timely and appropriate to enable it to carry out the Project efficiently and to satisfy the Commitments (as defined in Paragraph 10 hereof). Plans showing the Project Facilities as the Sponsor intends to complete them are included in Exhibit B hereto. It is agreed and understood that the Sponsor has heretofore expended funds on the Project Facilities, for which it will seek reimbursement from the Grant proceeds.

3. Project Investment. The Sponsor agrees that its total investment in the Project, including the proceeds of the Grant described in this Agreement, will be at least One Hundred Twenty-Five Million Dollars (\$125,000,000). The word "investment," as used in this Paragraph 3, means funds expended by the Sponsor on capital assets and other items directly related to the Project Facilities and the Project. There shall be no time limitation on the Sponsor's commitment to make the full

investment. In addition, notwithstanding Ark. Code Ann. § 15-4-3205, contained in the Implementation Act, the Sponsor shall not be subject to any penalty for failing to make the investment in the Project in the full amount specified in this Paragraph.

4. Employment Commitments. The Sponsor agrees to meet the requirements specified below with respect to employment to be created and maintained in connection with the Project and Existing Facility. The commitments described in this Paragraph 4 are referred to in this Agreement as the “Employment Commitments.” The Employment Commitments will be measured in FTEs.

a. The Sponsor and its Contractors will employ in Direct Positions and Independent Direct Positions FTEs (i) at the Project Facilities or (ii) located within 125 miles of the Project Facilities and within the State of Arkansas (“Project FTEs”; together with the Existing Facility FTEs, the “LM FTEs”).

(i). “Direct Position” refers to work directly related to the Project performed by FTEs employed by or for the benefit of the Sponsor. The Sponsor shall not designate any FTE attributed to a person as a Direct Position if the Sponsor (i) includes him or her as an employee in any calculation or count of employees for the purpose of qualifying for or receiving any incentive under the Consolidated Incentive Act of 2003 as amended from time to time (Ark. Code Ann. §§ 15-4-2701 et seq.) (the “Incentive Act”) or the Governor’s Quick Action Closing Fund, Economic Infrastructure Fund, or Community Development Block Grant fund (collectively, and together with incentives under the Incentive Act, the “State Incentives”), or (ii) applies or arranges, after the General Assembly’s legislative approval of the Grant, to receive any State Incentive that takes the FTE into account. Provided, however, that funds provided for or applied to training pursuant to Paragraph 9 hereof will not be treated as State Incentives for the purpose of this Paragraph 4(a)(i).

(ii). “Independent Direct Position” refers to FTEs attributed to work performed by a person not employed by the Sponsor if: (a) the Sponsor designates that person as an “Independent Direct Position”; (b) the person holds a position created after the General Assembly’s legislative approval of the Grant described herein; (c) the person is employed at the Project Facilities, or at a location within the State of Arkansas and no more than 125 miles from the Project Facilities; (d) the person is employed in connection with operating the Project or the Project Facilities; and (e) the person is employed with the primary objective of providing Integral Component products and services necessary to the operation of the Project, including but not limited to the following operations: (1) manufacturing, assembly, testing, or painting of sub-assemblies or finished products; (2) storage, handling, shipping, or receiving of components or finished products; (3) security or maintenance of buildings or grounds at the Project Facilities; or (4) any other support services at the Project Facilities as approved by the Commission. “Integral Component” means any sub-assembly or final assembly

including, but not limited to, drive train, chassis, cab, exterior panels, and cargo beds, but does not include minor parts. The Sponsor shall not designate FTEs attributed to any person an Independent Direct Position if the person's employer (i) includes him or her as an employee in any calculation or count of employees or FTEs for the purpose of qualifying for or receiving any State Incentive or (ii) applies or arranges, after the General Assembly's legislative approval of the Grant, to receive any State Incentive that takes the person or FTE into account. Provided, however, that funds provided for or applied to training pursuant to Paragraph 9 hereof will not be treated as State Incentives for the purpose of this Paragraph 4(a)(ii).

b. For each Project Year, the Sponsor and its Contractors will employ Project FTEs in at least the number shown for such Project Year on Exhibit A (the "Project Employment Commitment"). "Project Year" means a 52-week period shown on Exhibit A and ending on the Sponsor's last payroll date occurring on or before December 31 of the corresponding calendar year.

c. For each Project Year, the Sponsor and its Contractors will employ at least 556 additional LM FTEs (the "Additional Employment Commitment"). In the event total Project FTEs for any Project Year exceed the number required to meet the Project Employment Commitment for such Project Year, the number by which total Project FTEs exceed the number required to meet the Project Employment Commitment ("Excess Project FTEs ") will be counted in determining whether the Additional Employment Commitment has been met.

5. Full Time Equivalents. Full time equivalents ("FTEs") will be computed by dividing the total number of hours worked for the Project Year by 2,080. No person's work hours will be included in any FTE calculation unless (i) during the period employed that person was paid for 30 or more hours of work for each week, on average, and (ii) the person's employer classifies that person's position as "full-time" or "temporary-to-hire" or an equivalent classification.

6. Compensation Commitment. The Sponsor agrees that Project FTEs will be paid on average at least the average annual compensation shown on Exhibit A, exclusive of non-cash benefits, for the periods shown on Exhibit A (the "Compensation Commitment").

7. Time Periods. The Sponsor agrees to commence additional construction and renovation of the Project Facilities promptly after the date of closing, issuance and funding of the Bonds (as defined in Paragraph 8 hereof)("Closing Date"). The parties anticipate that the Closing Date will occur within 140 calendar days of the date of the award of the JLTV Contract described in Paragraphs 11(e) and 12(e) hereof, but in no event will the Closing Date be later than March 31, 2016, unless extended as described in Paragraph 7(a) hereof (the "Closing Deadline"). The parties anticipate that commercial production at the Project Facilities will commence approximately 10 months after the Closing Date.

a. In the event the conditions to Closing described in Paragraphs

11(e) and 12(e) hereof are not fulfilled by March 31, 2016, the State may, at its option:

(i). Extend the Closing Date, with the consent of the Sponsor, by a period of time authorized by the Commission with any such extension of the Closing Deadline requiring the written consent of the Governor of the State, Speaker of the State House of Representatives, and President Pro Tem of the State Senate; or

(ii). Terminate this Agreement and any obligation to provide Amendment 82 Financing, upon thirty (30) calendar days written notice to the Sponsor.

b. The Project as proposed by the Sponsor depends upon the award by DOD to the Sponsor of a contract for the production of the proposed Joint Light Tactical Vehicle ("JLTV Contract"). If the Sponsor is not awarded the JLTV Contract and after a period of 120 calendar days following the award of the JLTV Contract there are no pending protest or written objections by an interested party to an award of the JLTV Contract or any other objection to the JLTV Contract solicitation and award process as defined in FAR 33.101, including any objection which has been perfected by a filing with: a) the Department of Army or other executive agency of the United States in accordance with Army Federal Acquisition Supplement Part 5133.1, "Protests," or similar agency regulation, b) the Government Accountability Office ("GAO") in accordance with 4 CFR Part 21, or c) the U.S. Court of Federal Claims as set forth in that Court's rules, then the State may, at its sole option, terminate this Agreement, and any obligation to provide Amendment 82 Financing, upon thirty (30) calendar days written notice to the Sponsor.

8. Amendment 82 Financing. Subject to the terms and conditions hereof and the Amendment 82 Requirements, as defined in Paragraph 11(b) hereof, the State agrees to provide funds in an amount up to Eighty Three Million Dollars (\$83,000,000) (the "Grant"), plus such additional sums as may be necessary to fund the training facilities described in Paragraph 9 hereof, to or for the benefit of, the Sponsor (together with the Grant, the "Amendment 82 Financing"). The Amendment 82 Financing will be funded through the issuance by the Arkansas Development Finance Authority (the "Authority") of general obligation bonds of the State in an amount not exceeding Eighty Seven Million One Hundred Forty-Five Thousand Dollars (\$87,145,000) in the aggregate (the "Bonds"). The Authority will issue the Bonds on behalf of the State pursuant to the powers granted to the Authority by Amendment 82 to the Arkansas Constitution, the Arkansas Amendment 82 Implementation Act, Arkansas Code Annotated 15-4-3201 et seq. (the "Implementation Act"), and the Arkansas Development Finance Authority Act, Arkansas Code Annotated 15-5-101 et seq., in such denominations and series and upon such terms and conditions as determined by the Authority on behalf of the State, in its sole and absolute discretion. The Bonds will be direct general obligations of the State, the payment of debt service on which the full faith and credit of the State shall be

pledged. From the proceeds of the Bonds, the following amounts are intended to be funded by the State:

a. Use of Funds. Proceeds of the Grant will be disbursed by the State to the Sponsor for payment or reimbursement of qualifying costs of acquisition, construction, renovation and equipping of the Project Facilities, for infrastructure improvements, and for any other costs incidental to the Project that are eligible for Amendment 82 Financing and that are approved as eligible by the State ("Eligible Costs"). No funds will be disbursed by the State with respect to the Grant without the prior approval of the Commission and the Authority. The Sponsor's anticipated use of funds is described in Exhibit B to this Agreement. The Commission understands that the Sponsor intends the funds to qualify under Section 118 of the Internal Revenue Code of 1986, as amended from time to time. The funds described herein are specifically bargained for by and between the Commission and the Sponsor and are provided by the Commission to the Sponsor as an inducement contingent on job creation and retention in Arkansas. The funds are to be used by the Sponsor for capital investments and development related to the Project and not to pay current operating costs or dividends. The Commission shall have no duty arising under the Internal Revenue Code or Internal Revenue Code regulations to monitor the Sponsor's use of the funds afforded by the terms of this Agreement. The Commission shall, however, monitor the Sponsor's use of funds as otherwise provided in this Agreement and by applicable Arkansas law.

b. Other Costs. An amount up to Two Million Five Hundred Thousand Dollars (\$2,500,000) may be funded through the Bonds for the purpose of paying reasonable and necessary costs and expenses of the State in connection with issuance of the Bonds (determined by the Authority, in its sole and absolute discretion), and reasonable and necessary costs and expenses of the State in connection with the approval and accomplishment of the Project and the Amendment 82 Financing (determined by the Commission, in its sole and absolute discretion), specifically including the administrative fee of the Authority and the fees and costs due to those trustees, agents, underwriters, attorneys, financial advisors, accountants and consultants performing services on behalf of the State in connection with the issuance of the Bonds and the Project. The Sponsor shall not be responsible for any of such costs.

c. Disbursement Procedure. The Grant will be disbursed by the State to, or for the benefit of, the Sponsor in one (1) or more disbursements. The Sponsor may request a disbursement from the Grant by submitting a request for disbursement to the Commission and the Authority ("Request for Disbursement").

(i). A Request for Disbursement must include an itemization of each cost and expense for which the Sponsor requests payment or reimbursement, and shall be in substantially the form set forth in Exhibit D to this Agreement. In support of a Request for Disbursement, the Sponsor shall provide a copy of all invoices and proof of payment with respect to

each cost and expense identified in the Request for Disbursement. The Sponsor shall provide the State with full access to all other directly pertinent documents, records, and other information in the possession, custody or control of the Sponsor that relate to each cost and expense identified with respect to a Request for Disbursement.

(ii). Upon completion of the verification by the State of the costs and expenses identified in a Request for Disbursement, the Authority shall send a notice of payment to the Sponsor setting forth the amount approved by the Commission and the Authority to be disbursed by the State with respect to the costs and expenses identified in a Request for Disbursement. Within ten (10) business days after the date of a notice of payment, the State will cause the amount set forth in the notice of payment to be disbursed to the Sponsor by wire transfer to an account of the Sponsor designated in the Request for Disbursement. All Requests for Disbursement must be submitted by the Sponsor to the State no later than forty-eight (48) months after the Closing Date.

(iii). The Sponsor shall further provide the State with full access to all such documents, records, and other information as are reasonably necessary for the State to perform any audit required by the Implementation Act, and including, without limitation, verification that each cost and expense identified with respect to a Request for Disbursement has been actually paid or incurred by the Sponsor, the reasonableness of the nature and amount of the cost and expense, and whether the cost and expense may be properly characterized as Eligible Costs.

(iv). The State will cooperate with Sponsor in observing security protocols, as set forth in Exhibit C, in place at the Project Facilities and the Existing Facilities, to the extent consistent with Arkansas law.

9. Training Facilities. From the Amendment 82 Financing the State will provide to or for the benefit of Southern Arkansas University Tech or another similarly qualified provider the amount of One Million, Six Hundred Forty-five Thousand Dollars (\$1,645,000) to be used for construction and equipping of facilities to be located at Southern Arkansas University Tech or in the vicinity of the Project for the training of individuals, including without limitation individuals who may fill Direct Positions or Independent Direct Positions at the Project Facilities or in connection with the Project.

10. Grant Recapture. The Sponsor understands that all of the economic incentives being offered to the Sponsor as an inducement to locate the Project in Calhoun County represent an expectation by the Commission that the Sponsor will timely meet the Project Employment Commitment, the Additional Employment Commitment, and the Compensation Commitment (together the "Commitments"). In the event the Sponsor fails to cause any of the Commitments to be achieved and maintained, the Sponsor will pay to the State certain amounts (the "Repayment Obligation") to be calculated based upon the formulas set forth in this Paragraph 10 (the "Repayment Calculations"). The total amount to be paid by the Sponsor pursuant to any or all of the Repayment Calculations will not exceed the lesser of Eighty Three

Million Dollars (\$83,000,000) or the total amount of the Grant disbursed by the State pursuant to Paragraph 8 hereof. Subject to the right to cure provided in Paragraph 10(e) hereof, any Repayment Obligation due to be paid by the Sponsor to the State under this Paragraph 10 shall be paid immediately upon written notice from the State. For the purpose of the Recapture Calculations the Additional Employment Commitment will be calculated by adding any Excess Project FTEs to Existing Facility FTEs. Notwithstanding the foregoing, all Project FTEs counted toward the Additional Employment Commitment will be subject to the Compensation Commitment, and the Recapture Calculations.

a. Project Employment Commitment. If the Sponsor fails to meet the Project Employment Commitment for any Project Year, it will repay a portion of the Grant equal to 1.3% (32.5% of 4%) of the total amount of the Grant disbursed as of the end of the Project Year, multiplied by one minus the ratio of the number of Project FTEs for the Project Year to the agreed number of Project FTEs set forth in Exhibit A for that period:

$$\text{Recapture Amount} = 0.013 \times \text{Grant Amount Disbursed} \times$$

$$(1 - (\text{Actual Project FTEs} / \text{Project FTEs Agreed per Exhibit A}))$$

b. Additional Employment Commitment. If the Sponsor fails to meet the Additional Employment Commitment for any Project Year, it will repay a portion of the Grant equal to 1.3% (32.5% of 4%) of the total amount of the Grant disbursed as of the end of the Project Year, multiplied by one minus the ratio of the sum of (a) the number of Existing Facility FTEs, and (b) the number of Excess Project FTEs for that Project Year, to 556:

$$\text{Recapture Amount} = 0.013 \times \text{Grant Amount Disbursed} \times$$

$$(1 - ((\text{Existing Facility FTEs} + \text{Excess Project FTEs}) / 556))$$

c. Compensation Commitment. If the Sponsor fails to meet the Compensation Commitment for any Project Year, it will repay a portion of the Grant equal to 1.4% (35% of 4%) of the total amount of the Grant disbursed as of the end of the Project Year, multiplied by one minus the ratio of the actual average annual wage for Project FTEs (including Excess Project FTEs) for that Project Year to the agreed average annual wage for Project FTEs set forth in Exhibit A for that Project Year:

$$\text{Recapture Amount} = 0.014 \times \text{Grant Amount Disbursed} \times$$

$$(1 - (\text{Actual Average Project FTE Wage} / \text{Average Project FTE Wage Agreed per Exhibit A}))$$

d. Contract Termination. If the DOD terminates, rescinds or withdraws ("termination") any or all contracts with the Sponsor relating to the GVAB Program (singularly or collectively, "DOD contract") due to the Sponsor's failure to perform any DOD contract to the satisfaction of DOD, or due to any administrative or judicial decision based in whole or in part upon acts or omissions of the Sponsor or its agents or material

defects in Sponsor's bid, and Sponsor determines that, as a result of such termination it will not be able to meet any one or more of the Commitments or any other material obligation to the State of Arkansas described in this Agreement, the Sponsor will, upon written notice from the State, repay a portion of the Grant equal to 4% of the total amount of the Grant disbursed as of the termination date multiplied by the difference of the number of Project Years then remaining on the Commitments (as set forth in Exhibit A) less the number of Project Years, if any, deducted under Paragraph 10(f) hereof.

e. Unavoidable Failure Cure Period. In the event the Sponsor fails in any Project Year to meet any one or more of the Commitments, and such failure is a result of events beyond the Sponsor's reasonable control ("Unavoidable Failure"), the Sponsor may cure the failure.

(i). Events beyond Sponsor's reasonable control include, but are not limited to, acts of God, fire, casualty, riot, act of terrorism, or natural disaster. Events beyond Sponsor's reasonable control do not include contract termination described in subparagraph (d) of this Paragraph 10, Sponsor's decisions or acts or the decisions or acts of its agents, the effect of contracts or agreements with third parties other than the DOD contract, financial distress, merger, acquisition, sale or assignment, acts of creditors, bankruptcy, judgments or collection.

(ii). In order to cure an Unavoidable Failure the Sponsor must (A) promptly notify the State in writing of the reason for the Unavoidable Failure and that the Sponsor elects to cure the failure, and (B) meet each failed Commitment in the first or second Project Year following the Project Year in which the Unavoidable Failure occurred. In the event an Unavoidable Failure is cured, the Repayment Obligation for the Project Year in which the Unavoidable Failure occurred will be waived by the State.

(iii). If the Sponsor elects to cure an Unavoidable Failure but fails to cure within the time allowed, the related outstanding Repayment Obligation will be due immediately upon the earlier of written notice from the State, or written notice from the Sponsor to the State that the Sponsor will not be able to timely cure the Unavoidable Failure.

f. Reduction of Recapture Period. If the Sponsor has for any two complete consecutive Project Years both (a) exceeded the Project Employment Commitment by at least 25%, and (b) met each of the other Commitments, and if the Sponsor is then in compliance with all terms and conditions of the Amendment 82 Agreement, then two Project Years will be deducted from the end of the schedule described in Exhibit A, shortening the time during which the Sponsor must meet the Commitments. No one Project Year may be included in more than one such reduction calculation.

g. Events of Default. If at any time after Project Year 5 (as described in Exhibit A) the number of Project FTEs (including any Excess Project FTEs) is less than 20% of the Project Employment Commitment in any two Consecutive Project Years ("Substantial Default"), and if such Substantial Default is not a result of an Unavoidable Failure, the

Sponsor will, upon written notice from the State, repay a portion of the Grant equal to the sum of: (a) 4% of the total amount of the Grant disbursed as of the termination date multiplied by the difference of the number of Project Years then remaining on the Commitments (as set forth in Exhibit A) less the number of Project Years, if any, deducted under Paragraph 10(f) hereof; and (b) the amount of all interest accruing and to accrue on the Bonds, at their respective coupon rates, for the period of time between the first day of the year following the Project Year in which the Substantial Default first occurred and the first call date for the Bonds.

11. Conditions of the Financing. In addition to all other conditions set forth in this Agreement and the requirements of any other applicable laws, the economic incentives, including the Amendment 82 Financing, set forth in this Agreement are subject to the following conditions of the State:

a. [Reserved.]

b. Satisfactory completion of the actions required by the Governor of the State (the "Governor"), the General Assembly of the State (the "General Assembly"), the Authority, the Department of Finance and Administration (the "Department"), and all other officials pursuant to the requirements of Amendment 82 and the Implementation Act (together, the "Amendment 82 Requirements").

c. [Reserved.]

d. Satisfactory negotiation and execution of all documents necessary to the issuance of the Bonds, and any other documents required by this Agreement.

e. The award of the JLTV Contract to the Sponsor (the "JLTV Contract Award"), the passage of twenty (20) calendar days after the award, and the absence of any pending protest or written objection by an interested party to an award of a contract or any other objection to the contract solicitation and award process as defined in FAR 33.101, including any objection which has been perfected by a filing with: a) the Department of Army or other executive agency of the United States in accordance with Army Federal Acquisition Supplement Part 5133.1, "Protests," or similar agency regulation, b) GAO in accordance with 4 CFR Part 21, or c) the U.S. Court of Federal Claims as set forth in that Court's rules. Upon issuance of the Bonds, the State will be obligated to disburse the Grant as hereinabove provided, and the Sponsor will be obligated to perform as described herein, including an obligation to use Grant proceeds in a timely manner to pay costs of the Project eligible to be funded from proceeds of the bonds; provided, however, that the State will have no obligation to disburse the Grant or any part thereof if a court, executive or administrative body has issued, and there remains in effect, a stay, injunction or other order that prevents or delays performance of the JLTV Contract by DOD or the Sponsor.

f. Written certification by the Sponsor agrees that to the best of its information and belief, based on (1) internal due diligence, (2) a contemporaneous examination of publicly available records at the GAO

and the Court of Federal Claims, and (3) affirmative inquiries directed to the U.S. Government JLTV Contracting Officer seeking confirmation that no agency protest has been filed with the Department of the Army (“Army”) pursuant to FAR 33.103, “Protests to the agency,” that there are no pending protests or objections to the contract solicitation and award process as described above as of the effective date of the certification.

12. Conditions of the Sponsor. In addition to all other conditions set forth in this Agreement and the requirements of any other applicable laws, the economic incentives, including the Amendment 82 Financing, set forth in this Agreement are subject to the following conditions of the Sponsor:

a. [Reserved.]

b. Satisfactory completion of the actions required by the Governor, the General Assembly, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

c. [Reserved.]

d. Satisfactory negotiation and execution of all documents pertaining to the issuance of the Bonds, and any other documents required by this Agreement.

e. The award of the JLTV Contract to the Sponsor and the absence of any pending protest or written objection by an interested party to an award of a contract or any other objection to the contract solicitation and award process as defined in FAR 33.101, including any objection which has been perfected by a filing with: a) the Department of Army or other executive agency of the United States in accordance with Army Federal Acquisition Supplement Part 5133.1, “Protests,” or similar agency regulation, b) GAO in accordance with 4 CFR Part 21, or c) the U.S. Court of Federal Claims as set forth in that Court’s rules. Upon issuance of the Bonds, the State will be obligated to disburse the Grant, and the Sponsor will be obligated to perform as described herein, including an obligation to use Grant proceeds in a timely manner to pay costs of the Project eligible to be funded from proceeds of the bonds; provided, however, that the State will have no obligation to disburse the Grant or any part thereof if a court, executive or administrative body has issued, and there remains in effect, a stay, injunction or other order that prevents or delays performance of the JLTV Contract by DOD or the Sponsor.

13. Termination. In the event any condition to Closing set forth in Paragraph 11 or 12 hereof are not satisfied or waived on or before the Closing Deadline (as extended), either the State or the Sponsor may send written notice of termination to the other Party and thereafter the Parties shall have no further obligations pursuant to this Agreement. Provided, however, that in the event of termination under Paragraphs 7(a)(ii) or 7(b), the notice provisions of such paragraphs shall apply.

14. Assistance and Collaboration. The Sponsor plans (but is not required) to work collaboratively with:

a. Calhoun County, Arkansas, with assistance provided by the Com-

mission, with the goal of reaching satisfactory agreements for property tax relief through the issuance of industrial development revenue bonds by Calhoun County, subject to the restriction that the Sponsor would pay an amount not less than 35% of what would otherwise have been payable by the Sponsor if industrial development revenue bonds and a payment in lieu of tax agreement were not provided; and

b. The City of Camden, Arkansas, and the Ouachita Partnership for Economic Development, Inc., with assistance provided by the Commission, with the goal of reaching a satisfactory agreement providing for an Industry Incentive Award in the amount of \$1,000,000.

15. Assumption or Sale. In the event the Project, or any part thereof, is sold, conveyed or transferred to any other person or entity, the Sponsor shall remain fully obligated for each of the Commitments, including without limitation any Repayment Obligations.

16. Confidentiality and Non-Disclosure. The Parties recognize that certain information and records provided by the Sponsor to the Commission or the Authority include trade secrets or other information which, if disclosed, would give advantage to competitors of the Sponsor, or include records related to the Sponsor's planning, site location, expansion, operations, product development or marketing (collectively, "Confidential Business Information"). Such records are generally exempt from public disclosure under the terms of the Arkansas Freedom of Information Act, Ark Code Ann. § 25-19-101 et seq. Neither Party to this Agreement nor any related entity, affiliate, or representative of a Party shall make any disclosure of Confidential Business Information without the prior written consent of the other Party; provided however, that a Party may make such a disclosure without the consent of the other Party if the other Party has been afforded, to the extent reasonably practicable, an opportunity to contest the disclosure, and the disclosure is: (a) compelled by legal, accounting, or regulatory requirements applicable to and beyond the reasonable control of the Party; (b) necessary to proceed with the intentions and agreements contained in this Agreement as they specifically relate to any affiliate or representative of any Party; (c) necessary to obtain legislative approval of the undertakings set forth in this Agreement; or (d) required under applicable law binding upon the disclosing Party. The Party making such a disclosure shall give written notice thereof to the other Party as early as reasonably practicable.

17. Public Reporting Requirements. The Sponsor acknowledges and agrees to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Implementation Act set forth in Ark. Code Ann. §§ 15-4-3206, 15-4-3221, and 15-4-3224. The Sponsor shall reasonably cooperate with the State by providing such documents, records, and other information to the State as may be necessary to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Implementation Act and other applicable laws. The Sponsor shall maintain and make available all documents, records, and other information for annual audit by the Commission, the

State's Chief Fiscal Officer, and upon request, but no more often than annually, by the Office of Economic and Tax Policy or a person retained by the Office of Economic and Tax Policy. The Sponsor shall comply with all auditing and reporting requirements of any state or federal regulatory agency or other Governmental Authority that may have jurisdiction over the Sponsor. The State will cooperate with the Sponsor in observing security protocols, as set out in Exhibit C, in place at the Project Facilities and the Existing Facilities, to the extent consistent with Arkansas law. The Sponsor shall cause each person or entity that employs or contracts with an individual holding an Independent Direct Position (the "Independent Direct Employer") to provide to the State such documents, records, and other information as may be necessary to comply with the audit requirements of the Implementation Act, including those set forth in Ark. Code Ann. § 15-4-3206. For the purposes of Paragraphs 4 and 10 hereof no FTE may be counted as an Independent Direct Position unless the Independent Direct Employer fully complies with the State's requests for information necessary to comply with the audit and reporting provisions of the Implementation Act.

18. Force Majeure. No Party shall bear responsibility or liability for non-performance of any obligations under this Agreement, other than the Commitments, caused by, and during the duration of, major events beyond its reasonable control, such as an act of God, emergency, fire, casualty, lockout or strike, unavoidable accident, riot, war, terrorism, financial market disruption, computer virus or similar threat, or other force majeure. Responsibility for failure to meet the Commitments is described in Paragraph 10 hereof, which shall control in the event of any inconsistency between Paragraph 10 and this Paragraph 18.

19. General Terms. To the extent there may be any conflict between the terms and conditions of this Agreement and the Letter of Commitment, this Agreement shall prevail. To the extent that the Sponsor does not accept for whatever reason any portion of the funds or economic incentives set forth in this Agreement, neither the State, the Authority, nor the Commission shall have any obligation to replace the value of the funds or economic incentives not accepted, inclusive of the value of any matching funds, with other funds or economic incentives. This Agreement will be binding upon and will inure to the benefit of the successors and assigns of the Sponsor. This Agreement, contains all the terms and conditions of the agreement of the parties as to the Amendment 82 Financing.

20. Representations and Warranties. In order to induce the State to enter into this Agreement, the Sponsor hereby represents and warrants to the State as follows:

a. Names. The correct legal name of the Sponsor is "Lockheed Martin Corporation".

b. Organization of the Sponsor. The Sponsor is a business corporation duly organized, validly existing, and in good standing pursuant to the laws of the State of Maryland. The Sponsor has performed all acts required of it to be qualified as a foreign corporation to do business in

the State.

c. Authorization. The Sponsor has full power and authority to execute and deliver this Agreement and to perform the obligations of the Sponsor pursuant to this Agreement. The Sponsor has duly authorized the execution, delivery, and performance of this Agreement. This Agreement constitutes the valid and legally binding obligation of the Sponsor enforceable in accordance with its terms and conditions. The undersigned authorized signatory of the Sponsor is the lawful agent of the Sponsor with the authority to execute and deliver this Agreement.

d. Purpose. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Grants shall be used by the Sponsor solely for purposes described in Paragraph 2 hereof.

e. Non-contravention Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement shall: (a) violate any applicable law including the Amendment 82 Requirements; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create the right to accelerate, terminate, modify, cancel, or require any notice pursuant to any material contract or lease to which the Sponsor may be a party or by which the Sponsor may be bound; or (c) violate or conflict with the articles of incorporation, bylaws, or other governing documents of the Sponsor.

21. General Covenants. In addition to the covenants of the Sponsor set forth elsewhere in this Agreement, the Sponsor covenants and agrees as follows:

a. Change of Name. The Sponsor shall not change its legal name unless the Sponsor provides notice to the Commission and the Authority as soon as reasonably possible after the change of its name.

b. State of Organization. The Sponsor shall not change the jurisdiction of the organization of the Sponsor unless the Sponsor provides notice to the Commission and the Authority as soon as reasonably possible after the change of its jurisdiction.

c. Eligible Business. The Sponsor shall qualify as an "eligible business" as defined in the Incentive Act prior to the receipt of the Amendment 82 Financing.

22. General Provisions.

a. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State without regard to principles of conflicts of laws that would require or permit the application of the laws of a state other than the State, except that federal statutes and regulations expressly referenced in this Agreement shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and the Government Accountability Office.

b. Interpretation. This Agreement shall be interpreted as follows: (a) as though the State and the Sponsor (each a "Party" and collectively the "Parties") shared equally in the negotiation and preparation of this Agreement; (b) gender or lack of gender of any word shall include the

masculine, feminine, and neuter; (c) singular shall include plural and plural shall include singular; (d) the words “include” and “including” mean, in addition to any regularly accepted meaning, “without limitation” and “including but not limited to”; (e) references to Paragraphs refer to Paragraphs of this Agreement; (f) subject headings, captions, and titles shall not affect the interpretation of this Agreement; (g) as a solicitation for offers until this Agreement shall have been executed and delivered by all Parties; (h) the definition of any term in this Agreement shall apply to all uses of such term whenever capitalized; and (i) any Exhibits to this Agreement shall be incorporated into this Agreement as though fully set forth word for word in this Agreement.

c. Business Day. If any provision of this Agreement shall require the performance of an obligation or the exercise of a right on a date that shall be a legal holiday pursuant to applicable law, a Party may postpone the performance of such obligation or the exercise of such right until the next business day pursuant to applicable law.

d. Currency. Any reference to dollars or money in this Agreement shall mean legal tender of the United States of America. Any amount required to be paid by a Party pursuant to this Agreement shall be paid by check or electronic transfer payable to the order of the Party to receive such amount.

e. Time for Performance. Time shall be of the essence.

f. Brokers. The State shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the Sponsor. The Sponsor shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the State.

g. Expenses. Except as provided in this Agreement, each Party shall pay all expenses incurred by such Party with respect to: (a) the negotiation, preparation, execution, delivery, and performance of this Agreement; and (b) the transactions contemplated by this Agreement.

h. Notice. All notices, demands, requests, and other communications required by this Agreement shall be in writing and shall be delivered to a Party by either: (a) personal delivery; (b) overnight delivery service with delivery costs and expenses prepaid and receipt of delivery requested; (c) certified or registered mail with postage prepaid and return receipt requested; or (d) by electronic mail to the persons then holding the titles below. All notices, demands, requests, and other communications permitted or required by this Agreement shall be delivered to the Parties at the following addresses unless another address shall be designated by a Party by notice pursuant to the provisions of this Section:

If to the State: Office of the Governor
State Capitol Room 250
Little Rock, Arkansas 72201
justin.tate@governor.arkansas.gov
rett.hatcher@governor.arkansas.gov

AND

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
oag@arkansasag.gov

AND

Arkansas Department of Finance and
Administration
Office of the Director
1509 West Seventh Street, Suite 401
Little Rock, Arkansas 72203-3278
jamie.levinsky@dfa.arkansas.gov

AND

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72201
mpreston@arkansasedc.com
bscoggins@arkansasedc.com

AND

Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72201
aaron.burkes@adfa.arkansas.gov
brad.henry@adfa.arkansas.gov

If to the
Commission:

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72201
mpreston@arkansasedc.com

AND

Arkansas Economic Development Commission
Attn: Bryan Scoggins

900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72201
bscoggins@arkansasedc.com

If to the Authority: Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72201
aaron.burkes@adfa.arkansas.gov

AND

Arkansas Development Finance Authority
Attn: Vice President, Development Finance
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72201
brad.henry@adfa.arkansas.gov

If to the Sponsor: Lockheed Martin Corporation
Attn: Mr. Harold R. O'Neal
Vice President, Production Operations
Lockheed Martin Missiles and Fire Control
1701 W. Marshall Drive
Dallas, Texas 75051
randy.oneal@lmco.com

AND

Attn: James C. Mifsud
Deputy General Counsel
Lockheed Martin Missiles and Fire Control
5600 Sand Lake Road, MP-532
Orlando, Florida 32819
james.c.mifsud@lmco.com

AND

Kathryn B. Hasse
Director, Tactical Wheeled Vehicles
Lockheed Martin Missiles and Fire Control
1701 W. Marshall Drive, M/S: SP-11
Dallas, Texas 75051
kathryn.hasse@lmco.com

With a copy to:
LMC Properties, Inc.
100 S. Charles Street, Suite 1400
Baltimore, MD 21201
Attn: General Counsel
theresa.b.shea@lmco.com

i. Amendment. This Agreement may be modified or amended only by a subsequent written agreement executed and delivered by all Parties in accordance with the requirements of the Implementation Act. The course of dealing and the course of performance among the Parties shall not modify or amend this Agreement in any respect.

j. Waiver. The provisions of this Agreement may be waived only by a subsequent written agreement executed and delivered by all Parties. Any delay or inaction by a Party shall not be construed as a waiver of any of the provisions of this Agreement. A waiver of any provision of this Agreement: (a) shall not be construed as a waiver of any other provision of this Agreement; (b) shall be applicable only to the specific instance and for the specific period in which the waiver may be given; (c) shall not be construed as a permanent waiver of any provision of this Agreement unless otherwise agreed by all Parties in a subsequent written agreement executed and delivered by all Parties; (d) shall not affect any right or remedy available to a Party; and (e) shall be subject to such terms and conditions as provided in a subsequent written agreement executed and delivered by all Parties.

k. Binding Effect. The Parties executed and delivered this Agreement with the intent to be legally bound to its provisions. This Agreement shall inure to the benefit of, shall be binding on, and shall be enforceable by the heirs, successors, and assigns of the Parties.

l. Third Party Beneficiary. The Parties do not intend to create any rights pursuant to this Agreement for the benefit of any third party beneficiary except as expressly provided in this Agreement.

m. Severability. Each provision of this Agreement shall be severable from all other provisions of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be determined to be invalid or unenforceable by a Governmental Authority in any litigation among the Parties, such provision shall be amended, without further action by the Parties, to the extent necessary to cause such provision to be valid and enforceable.

n. Remedies. The remedies provided in this Agreement and the Act shall be cumulative and not exclusive of any remedies otherwise available to the Parties pursuant to applicable law.

o. Conflicts. If there shall be an irreconcilable conflict between the provisions of this Agreement and the provisions of any other document with respect to the transactions contemplated by this Agreement

including the Formal Proposal and the Letter of Commitment, the provisions of this Agreement shall prevail and the conflict shall be resolved by reference only to the provisions of this Agreement. To the extent there may be an irreconcilable conflict between the Amendment 82 Requirements and the provisions of this Agreement, the Amendment 82 Requirements shall prevail.

p. Entire Agreement. This Agreement contains the entire agreement of the Parties on the subject matters of this Agreement, and any oral or prior written understanding on the subject matters of this Agreement shall not be binding on the Parties. Each Party represents, warrants, and covenants that such Party has not been influenced to enter into this Agreement by any Person and has not relied on any representation, warranty, or covenant of any Person other than as set forth in this Agreement.

EXECUTED and DELIVERED as of _____, 2015.

THE STATE OF ARKANSAS

By: Governor, Asa Hutchinson

By: President Pro Tempore of the Senate,
Jonathan Dismang

By: Speaker of the House of Representatives,
Jeremy Gillam

By: Chief Fiscal Officer and Director of the
Department of Finance and Administration,
Larry Walther

By: Director of the Arkansas Economic
Development Commission,
Michael Preston

By: President of the Arkansas Development
Finance Authority, Aaron Burkes

THE SPONSOR
LOCKHEED MARTIN CORPORATION

By: Vice President, Production Operations,
Harold R. O'Neal

EXHIBIT A

Compensation Commitment

	Project Year 1 (2016)	Project Year 2 (2017)	Project Year 3 (2018)	Project Year 4 (2019)	Project Year 5 (2020)	Project Year 6 (2021)	Project Year 7 (2022)	Project Year 8 (2023)	Project Year 9 (2024)	Project Year 10 (2025)	Project Year 11 (2026)	Project Year 12 (2027)	Project Year 13 (2028)
Compensation Commitment	\$46,720	\$45,057	\$43,606	\$45,023	\$43,429	\$44,992	\$46,593	\$48,230	\$50,491	\$52,427	\$53,998	\$55,617	\$57,286

	Project Year 14 (2029)	Project Year 15 (2030)	Project Year 16 (2031)	Project Year 17 (2032)	Project Year 18 (2033)	Project Year 19 (2034)	Project Year 20 (2035)	Project Year 21 (2036)	Project Year 22 (2037)	Project Year 23 (2038)	Project Year 24 (2039)	Project Year 25 (2040)	
Compensation Commitment	\$59,005	\$60,777	\$62,599	\$64,475	\$66,411	\$68,410	\$70,457	\$72,573	\$74,750	\$76,994	\$79,299	\$81,679	

Project Employment Commitment

	Project Year 1 (2016)	Project Year 2 (2017)	Project Year 3 (2018)	Project Year 4 (2019)	Project Year 5 (2020)	Project Year 6 (2021)	Project Year 7 (2022)	Project Year 8 (2023)	Project Year 9 (2024)	Project Year 10 (2025)	Project Year 11 (2026)	Project Year 12 (2027)	Project Year 13 (2028)
Employment Commitment	100	122	176	310	538	533	523	514	491	589	589	589	589

	Project Year 14 (2029)	Project Year 15 (2030)	Project Year 16 (2031)	Project Year 17 (2032)	Project Year 18 (2033)	Project Year 19 (2034)	Project Year 20 (2035)	Project Year 21 (2036)	Project Year 22 (2037)	Project Year 23 (2038)	Project Year 24 (2039)	Project Year 25 (2040)	
Employment Commitment	589	589	589	589	589	589	589	589	589	589	589	589	

Compensation Commitment

Project Employment Commitment

EXHIBIT B

Facilities Projects
Construction

•

Test Track

•

Test Building

•

Parking Lots

•

Access Roads

•

Other construction necessary to support the project

Purchases and Installations

•

HVAC Systems

•

Furniture and Appliances

•

Fencing

•

Other purchases and installations necessary to support the project

Building Equipment

Bridge Cranes

•

Warehouse racking

•

Assembly Carts

•

Other building equipment necessary to support the project

Quality Assurance Equipment

•

Calibrators

•

Automated Torque System

•

Laser Trackers

•

Other quality assurance equipment necessary to support the project

Wheeled Vehicles — Rolling Stock

•

Forklifts

•

Tugs

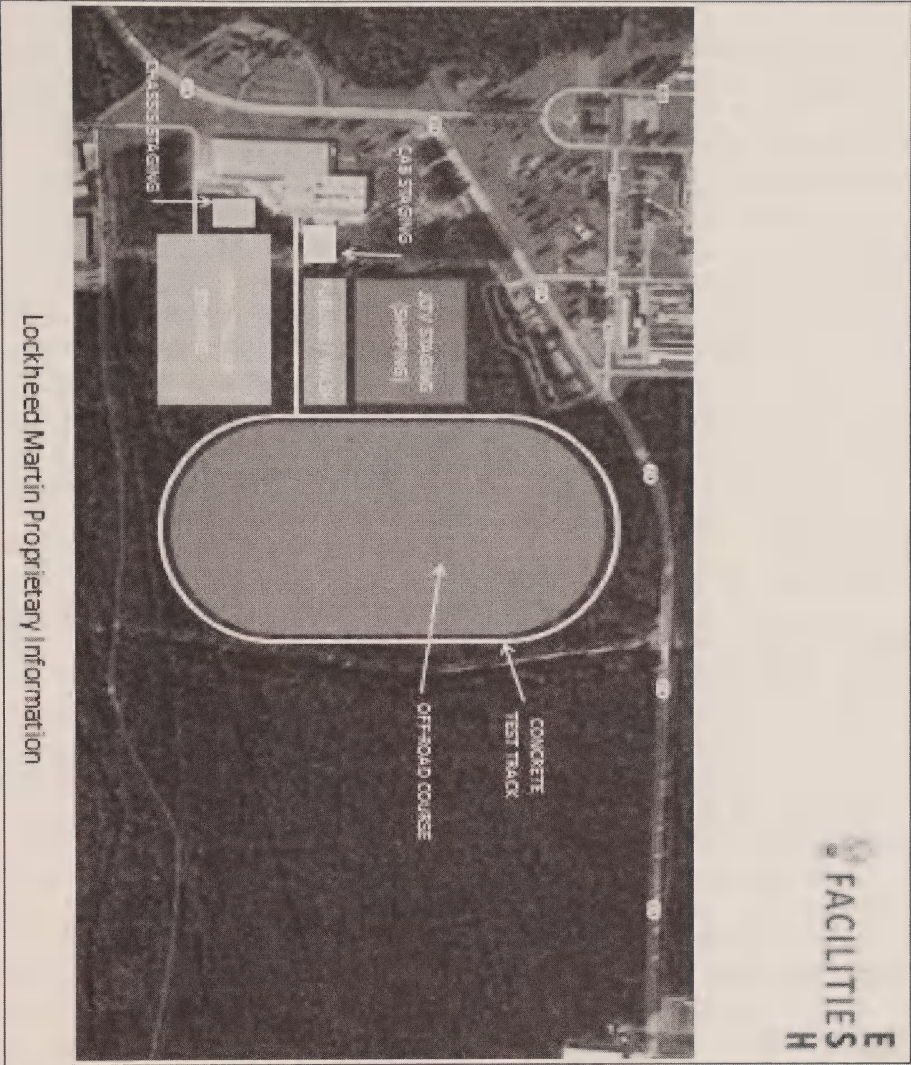
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Carts

- Trucks

- Other wheeled vehicles necessary to support the project

Plans of Project Facilities:



Lockheed Martin Proprietary Information

EXHIBIT C

SECURITY PROTOCOL

Security Protocol Between Lockheed Martin Corporation, acting by and through its Missiles and Fire Control ("LMMFC") Business Area ("Sponsor") and the State of Arkansas ("State") regarding the Letter of Commitment and the Amendment 82 Agreement for new products and existing facility improvements at the LMMFC Facility in Calhoun County, Arkansas.

SECTION 1. This protocol applies to the LMMFC Facility in Camden, Arkansas and the LMMFC Facilities in Dallas, Texas and Orlando, Florida. All documents, records and other information pertaining to disbursement requests pursuant to the Letter of Commitment between Lockheed Martin Corporation and the Arkansas Economic Development Commission and the Amendment 82 Agreement between Lockheed Martin Corporation and the State of Arkansas ("State") covering LMMFC's Camden, Arkansas Facility are expected to be in Camden, Arkansas; Dallas, Texas; or Orlando, Florida.

PROCESS

1. Advance Notification: The State will endeavor to the extent practical, and subject to its obligations under Arkansas law, to afford LMMFC reasonable advance notice of its desire to visit any of the LMMFC Facilities, audit and review documents, records and other information pertinent to the Letter of Commitment and the Amendment 82 Agreement, so that preparation can be made and required documents, records and other information can be collated and made available to the State of Arkansas.

Security Services

2. Upon the arrival of any representative(s) of the State to visit a LMMFC Facility and view or audit documents, records and other information at the LMMFC Facility in Camden, Arkansas; Dallas, Texas or Orlando, Florida pertaining to the Letter of Commitment or the Amendment 82 Agreement in Camden, Arkansas, Orlando, Florida, or Dallas, Texas, Security Services will notify the LMMFC Security Services senior executive or local LMMFC Facility Security Officer ("FSO").

3. Process the visiting representatives(s) of the State for the necessary badge, any required use of camera and equipment, and entrances into classified areas, if any.

4. Contact Business Operations to escort the representative(s) of the State.

Business Operations

5. Escort the representative(s) of the State to the site Business Operations senior executive, as requested.

6. Determine the purpose of the visit, if not already accomplished through the provisions of paragraph (1) above.

7. Advise the LMMFC Law Department and Government Compliance if cost or pricing information is to be supplied to the State.

8. Co-ordinate access to work areas in the Camden, Arkansas facility or at the Dallas, Texas and Orlando, Florida sites relative to completion of the State's audit of documents, records and other information required to verify costs and expenses identified with respect to Sponsor's submission of a Request for Disbursement pursuant to the Letter of Commitment or the Amendment 82 Agreement.

9. During the visit, escort the representatives of the State, and as necessary, make written notes relative to what is provided to the State in conjunction with its audit.

10. Advise the applicable Security Services senior executive, the local Facility Security, the Law Department or International Trade compliance if the State representative wishes to photograph, video, take notes or obtain documents or records that could be considered classified or proprietary.

11. If the State representative takes any photographs, videos, documents or records LMMFC will ensure that they are cleared for release to the State and are annotated appropriately. It is not anticipated that physical samples will be requested by the State, but to the extent they are, they should also be cleared for release to the State. LMMFC will clear any identified item for release to the State through the LMMFC Public Information Release Authorization procedures.

12. If any photographs, video, notes, documents, records and other information are taken, obtain duplicates of same where practical.

13. Upon completion of inspection, review or audit by the State, escort the State representative(s) to a designated area for an out-briefing.

14. Report results of the visit or audit to the Business Operations, and as appropriate, the Law Department and Government Compliance.

EXHIBIT D

REQUEST FOR GRANT DISBURSEMENT

TO: ARKANSAS DEVELOPMENT FINANCE AUTHORITY
("ADFA")

Attn: Vice President Development Finance
900 W. Capitol, Suite 310
Little Rock, AR 72201

ARKANSAS ECONOMIC DEVELOPMENT COMMIS-
SION ("AEDC")

Attn: Director of Business Finance
900 W. Capitol, Suite 400
Little Rock, AR 72201

SPON- Lockheed Martin Corporation
SOR:

RE: Amendment 82 Agreement

REQUEST # _____ (the "Request")

Balance Before this Request	\$83,000,000
Amount of this Request	\$
Balance After this Request	\$

By signing below, Lockheed Martin Corporation (the "Sponsor") represents and warrant to ADFA and AEDC that:

1. Sponsor is not in material default of any term or condition of the Amendment 82 Agreement.

2. The JLTV Contract, as defined by the Amendment 82 Agreement, has been issued to Sponsor, remains in full force and effect, and performance or payment under the JLTV Contract has not been stayed or enjoined.

3. All of the costs represented by this Request qualify as Eligible Costs as defined by the Amendment 82 Agreement.

4. Sponsor is not presently in material default under the DOD Contract, as defined by the Amendment 82 Agreement.

5. Sponsor is presently in compliance with each of the Commitments, as defined by the Amendment 82 Agreement.

6. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Amendment 82 Agreement.

7. Sponsor has actually paid or caused to be paid each of the costs and expenses for which reimbursement is sought by the Sponsor.

8. The attachments hereto include an itemization of each cost and expense for which reimbursement or payment is sought by the Sponsor.

IN WITNESS WHEREOF, Sponsor has duly executed and delivered this Request as of the date set forth below.

SPONSOR:

LOCKHEED MARTIN CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

By authorizing payment under this Request, neither ADFA nor AEDC make any warranty or representation as to the quality of the Work completed or materials delivered for the Project or with respect to the compliance of the Plans or the Work with any Governmental Regulations, and ADFA and AEDC executes this Application for Advance solely for purposes of approving the disbursement of the Advance requested herein.

ARKANSAS ECONOMIC DE-
VELOPMENT
COMMISSION

By: _____
Name: _____
Title: _____
Date: _____

ARKANSAS DEVELOPMENT
FINANCE
AUTHORITY

By: _____
Name: _____
Title: _____
Date: _____

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